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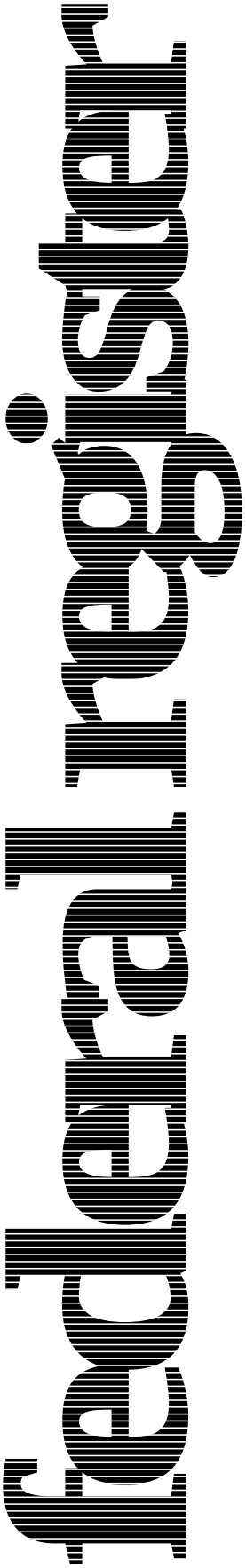

Friday
May 19, 1995

Briefings on How To Use the Federal Register
For information on briefings in Boston, MA see announcement on the inside cover of this issue.

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

BOSTON, MA

WHEN: June 20 at 9:00 am

WHERE: Room 419, Barnes Federal Building
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Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

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Free **Electronic Bulletin Board** service for Public Law numbers, **Federal Register** finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

[FV–94–326]

United States Standards for Grades of Canned Peas

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations published in the **Federal Register** on October 18, 1994. The regulations concern certain provisions contained in U.S. grade standards for canned peas.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT:

Mr. James R. Rodeheaver, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 0709 South Building, Washington, D.C. 20090–6456, Telephone (202) 720–4693.

SUPPLEMENTARY INFORMATION:

Background

In the final regulations, Section 52.2283, (b)(1) currently reads, ''Good appearance means that the peas are practically uniform in color and are reasonably free of insignificant blemishes.'' In this sentence, the word ''practically'' needs to be revised to read ''reasonably.'' Also, we are removing and reserving sections 52.2292 and 52.2293.

Need for Correction

As published, the final regulations contain errors which may prove to be misleading and are in need of clarification.

List of Subjects in 7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and recordkeeping requirements, Vegetables.

PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Accordingly, 7 CFR Part 52 is corrected by making the following correcting amendments:

1. The authority citation for Part 52 is revised to read as follows:

Authority: 7 U.S.C. 1622, 1624.

§ 52.2283 [Corrected]

2. In § 52.2283, paragraph (b)(1), first sentence, the word ''practically'' is revised to read ''reasonably.''

§ 52.2292 Through § 52.2293 [Remove and Reserve]

3. Sections 52.2292 and 52.2293 are removed and reserved.

Dated: May 10, 1995.

Eric M. Forman,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 95–12319 Filed 5–18–95; 8:45 am]
BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 29

[Docket No. 94–ASW–3; Special Condition 29–ASW–15]

Special Condition: Bell Helicopter Textron Model 222U Helicopter, Electronic Flight Instrument System

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special condition.

SUMMARY: This special condition is issued for the Bell Helicopter Textron, Inc., Model 222U helicopter modified by Heli-Dyne Systems, Inc. This helicopter will have a novel or unusual design feature associated with the Electronic Flight Instrument System. This special condition contains additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the airworthiness standards.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert McCallister, FAA, Rotorcraft Directorate, Policy and Procedures Group, Forth Worth, Texas 76193–0110; telephone (817) 222–5121.

SUPPLEMENTARY INFORMATION:

Background

On May 16, 1994, Heli-Dyne Systems, Inc., Hurst, Texas, applied for a Supplemental Type Certificate for installation of an Electronic Flight Instrument System in the Bell Helicopter Textron (BHTI) Model 222U helicopter. This model helicopter is a 10 passenger, 2 engine, 8,250 pound (Category B) or 7,850 pound (Category A) transport category helicopter.

Type Certification Basis

The certification basis established for the BHTI Model 222U helicopter includes: 14 CFR 21.29 and part 29 of the Federal Aviation Regulations (FAR) effective February 1, 1965 (Transport Categories A and B), Amendments 29–1 through 29–9; Amendment 29–11; § 29.997 of Amendment 29–10; § 29.927(b)(2) of Amendment 29–17; §§ 29.801, 29.25(c) 29.865, 29.1557(c), and 29.1555(c) of Amendment 29.12; §§ 29.1, 29.79, 29.1517, and 29.1587 of Amendment 29–21; Criteria for Helicopter Instrument Flight Rule (IFR) certification dated December 15, 1978; Exemption No. 2789, § 29.811(h)(1) (following Amendment 24, effective December 6, 1984, § 29.811(h)(1) became § 29.811(f)(1)); and Exemption No. 4395, § 29.855 (a) and portions of § 29.855(d).

If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for these helicopters because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Novel or Unusual Design Feature

The BHTI Model 222U helicopter, at the time of the application for modification by Heli-Dyne Systems, Inc., was identified as incorporating one and possibly more electrical, electronic, or combination of electrical and electronic (electrical/electronic) systems that will perform functions critical to the continued safe flight and landing of the helicopter. The electronic flight instrument system performs the attitude display function. The display of attitude, altitude, and airspeed is critical to the continued safe flight and landing of the helicopters for IFR operations in Instrument Meteorological Conditions.

If it is determined that these helicopters will incorporate other electrical/electronic systems performing critical functions, those systems also will be required to comply with the requirements of this special condition.

Discussion of Comments

Notice of Proposed Special Condition No. SC–94–3–SW was published in the **Federal Register** on December 27, 1994 (59 FR 66489). No comments were received. Therefore, the special condition is adopted as proposed.

Conclusion

This action affects only certain unusual or novel design features on one model of helicopter. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the affected helicopter.

List of Subjects in 14 CFR Part 29

Aircraft, Air transportation, Aviation safety, Rotorcraft, Safety.

The authority citation for this special condition is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2); 42 U.S.C. 1857f–10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g).

The Special Condition

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special condition is issued as part of the type certification basis for the Bell Helicopter Textron Model 222U helicopter:

Protection for Electrical and Electronic Systems From High Intensity Radiated Fields

Each system that performs critical functions must be designed and installed to ensure that the operation and operational capabilities of these critical functions are not adversely affected when the helicopters are exposed to high intensity radiated fields external to the helicopters.

Issued in Fort Worth, Texas, on May 10, 1995.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service, ASW–100.

[FR Doc. 95–12386 Filed 5–18–95; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 95–NM–69–AD; Amendment 39–9208; AD 95–09–05]

Airworthiness Directives; British Aerospace Model Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a typographical error that appeared in the applicability statement of the above-captioned airworthiness directive (AD) that was published in the **Federal Register** on April 28, 1995 (60 FR 20887). The typographical error in the applicability statement of the AD resulted in a reference to an incorrect part number.

DATES: Effective May 15, 1995.

The incorporation by reference of certain publications listed in the regulations was previously approved by the Director of the Federal Register as of April 28, 1995 (60 FR 20887).

FOR FURTHER INFORMATION CONTACT: Kirk Baker, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5345; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 95–09–05, amendment 39–9208, applicable to certain British Aerospace Model Avro 146–RJ series airplanes equipped with a certain Honeywell Standard Windshear Detection and Recovery Guidance System (WSS), was published in the **Federal Register** on April 28, 1995 (60 FR 20887). As published, that AD contained a typographical error in the applicability statement: the applicability statement indicated that the airplanes subject to the requirements of the AD were those equipped with Honeywell WSS having part number (P/N) 4048300–902; however the correct P/N is 4068300–902.

This document corrects the reference to the P/N cited in the applicability statement of AD 95–09–05, to read as follows:

''Applicability: Model Avro 146–RJ70A, –RJ85A, and –RJ100A airplanes; equipped with Honeywell Standard Windshear Detection and Recovery Guidance System (WSS), part number 4068300–902; certificated in any category.''

Since no other part of the regulatory information has been changed, the final rule is not being republished.

The effective date remains May 15, 1995.

Issued in Renton, Washington, on May 12, 1995.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 95–12206 Filed 5–18–95; 8:45 am]

BILLING CODE 4910–13–U

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1000

Commission Organization and Functions

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending its statement of organization and functions to reflect the transfer of the telecommunications function from the Directorate for Administration to the Office of Information Systems, and the renaming of the Office of Compliance and Enforcement to the Office of Compliance.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, telephone 301–504–0980.

SUPPLEMENTARY INFORMATION: The sections describing the Directorate for Administration and the Office of Information Services have been amended to reflect the transfer of the telecommunications function from the Directorate for Administration to the Office of Information Services.

Since this rule relates solely to internal agency management, pursuant to 5 U.S.C. 553(b), notice and other public procedures are not required and it is effective immediately on the specified effective date. Further, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612 and, thus, is exempt from the provisions of the Act.

List of Subjects in 16 CFR Part 1000

Organization and functions (government agencies).

Accordingly, 16 CFR part 1000 is amended as follows:

PART 1000—[AMENDED]

1. The authority citation for part 1000 continues to read as follows:

Authority: 5 U.S.C. 552(a).

2. Section 1000.12 is revised to read as follows:

§ 1000.12 Organizational structure.

The Consumer Product Safety Commission is composed of the principal units listed in this section.

(a) The following units report directly to the Chairman of the Commission:

(1) Office of the General Counsel;

(2) Office of Congressional Relations;

(3) Office of the Secretary;

(4) Office of the Inspector General;

(5) Office of Equal Employment Opportunity and Minority Enterprise;

(6) Office of the Executive Director.

(b) The following units report directly to the Executive Director of the Commission:

(1) Office of the Budget;

(2) Office of Hazard Identification and Reduction;

(3) Office of Information and Public Affairs;

(4) Office of Compliance;

(5) Office of Planning and Evaluation;

(6) Office of Human Resources Management;

(7) Office of Information Services;

(8) Directorate for Administration;

(9) Directorate for Field Operations.

(c) The following units report directly to the Assistant Executive Director for Hazard Identification and Reduction:

(1) Directorate for Epidemiology;

(2) Directorate for Economic Analysis;

(3) Directorate for Health Sciences;

(4) Directorate for Engineering Sciences;

(5) Directorate for Laboratory Sciences.

3. The heading of section 1000.24 is revised to read as follows:

§ 1000.24 Office of Compliance.

* * * * *

4. Section 1000.26 is revised to read as follows:

§ 1000.26 Office of Information Services.

The Office of Information Services, which is managed by the Assistant Executive Director for Information Services, is responsible for general policy, controlling and conducting managerial activities and operations relating to the collection, use, and dissemination of information by the agency. The Office manages the Commission's information system that supports all its program activities. The Office provides automated data processing and operational support for data collection, information retrieval, report generation, electronic mail, and statistical and mathematical operations of the agency. The Office maintains the agency's local area networks and develops and supports other network applications. The Office develops plans for improving agency operations through the use of information technology. The Office's functional responsibilities include planning, organizing, and directing information resources management (including records management and related requirements), and the managing of the agency's management directives system. The Office manages the Commission's telecommunications services including the agency's toll-free Hotline by which the public reports hazardous consumer products and receives information about product recalls and product hazards. It also oversees operation of the Commission's Internet and fax-on-demand services.

5. Section 1000.32 is revised to read as follows:

§ 1000.32 Directorate for Administration.

The Directorate for Administration, which is managed by the Associate Executive Director for Administration, is responsible for formulating general administrative policies supporting the Commission in the areas of financial management, procurement, and general administrative support services including property and space management, physical security, printing, and warehousing. The Directorate is responsible for the payment, accounting, and reporting of all expenditures within the Commission and for operating and maintaining the Commission's accounting system and subsidiary Management Information System which allocates staff work time and costs to programs and projects.

§§ 1000.7, 1000.19 and 1000.24 [Amended]

6. Part 1000 is further amended by removing the term ''Compliance and Enforcement'' each time it appears and inserting the term ''Compliance'' in its place, in the following locations:

a. Section 1000.7(b) (two times).

b. Section 1000.19.

c. Section 1000.24 (two times).

Dated: May 15, 1995.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 95–12280 Filed 5–18–95; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority covering the certification of true documents and use of the Department seal in order to update this authority to reflect recent changes to organizational structures within FDA.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT: L'Tonya Barnes, Division of Management Systems and Policy (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: FDA is amending the regulations in § 5.22 *Certification of true copies and use of Department seal* (21 CFR 5.22) in order to update this authority to reflect recent changes to organizational structures within FDA. Revisions and deletions have been made to reflect current titles. Also, the following additions have been made to bring the list of officials up-to-date: the Deputy Commissioners; the Director, Division of Management Operations, and Chief, Administrative Management Branch, Office of Resource Management, Office of Regulatory Affairs (ORA); the Director, FDA History Staff, ORA; the Director, Office of Policy, Planning, and Strategic Initiatives, Center for Food Safety and Applied Nutrition (CFSAN); the Director, Office of Management Systems, CFSAN; the Director, Office of Cosmetics and Colors, CFSAN; the Director, Office of Plant and Dairy Foods and Beverages, CFSAN; the Director, Office of Seafood, CFSAN; the Director, Office of Special Nutritionals, CFSAN; the Director, Office of Special Research Skills, CFSAN; the Director, Office of Constituent Operations, CFSAN; the Director, Office of Field Programs, CFSAN; the Director, Office of Premarket Approval, CFSAN; the Director, Office of Scientific Analysis and Support, CFSAN; and the Director, National Forensic Chemistry Center.

Further redelegation of the authority delegated is not authorized at this time. Authority delegated to a position by title may be exercised by a person officially

designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552, App. 2; 7 U.S.C. 138a, 2271; 15 U.S.C. 638, 1261–1282, 3701–3711a; secs. 2–12 of the Fair Packaging and Labeling Act (15 U.S.C. 1451–1461); 21 U.S.C. 41–50, 61–63, 141–149, 467f, 679(b), 801–886, 1031–1309; secs. 201–903 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321–394); 35 U.S.C. 156; secs. 301, 302, 303, 307, 310, 311, 351, 352, 354, 361, 362, 1701–1706; 2101, 2125, 2127, 2128 of the Public Health Service Act (42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b, 264, 265, 300u–300u–5, 300aa–1, 300aa–25, 300aa–27, 300aa–28); 42 U.S.C. 1395y, 3246b, 4332, 4831(a), 10007–10008; E.O. 11490, 11921, and 12591; secs. 312, 313, 314 of the National Childhood Vaccine Injury Act of 1986, Pub. L. 99–660 (42 U.S.C. 300aa–1 note).

2. Section 5.22 is amended by revising paragraphs (a)(1) through (a)(13) and by adding new paragraph (a)(14), by revising paragraphs (b)(1) and (b)(2), and by adding new paragraph (b)(3) to read as follows:

§ 5.22 Certification of true copies and use of Department seal.

(a) * * *

(1) The Deputy Commissioners.

(2) The Associate and Deputy Associate Commissioners.

(3)(i) The Director, Office of Executive Operations.

(ii) The Director, Executive Secretariat.

(iii) The Director, Program Management Staff.

(4) The Executive Assistant to the Commissioner, Office of the Commissioner.

(5)(i) The Director and Deputy Director, Office of Enforcement, Office of Regulatory Affairs (ORA).

(ii) The Director and Deputy Director, Office of Regional Operations, ORA.

(iii) The Director and Deputy Director, Office of Resource Management, ORA.

(iv) The Director, Division of Management Operations, and Chief, Administrative Management Branch, Office of Resource Management, ORA.

(v) The Director, FDA History Staff, ORA.

(6)(i) The Director, Division of Management Systems and Policy, Office of Management (OM).

(ii) The Chief, Dockets Management Branch, Division of Management Systems and Policy, OM.

(7) The Director, Freedom of Information Staff, Office of Public Affairs.

(8)(i) The Director and Deputy Directors, Center for Biologics Evaluation and Research (CBER).

(ii) The Director, Office of Management, CBER.

(iii) The Directors and Deputy Directors of the Office of Compliance, CBER.

(iv) The Director of Congressional and Public Affairs Staff, Office of the Center Director, CBER.

(v) The Chief, Surveillance and Policy Branch and Consumer Safety Officers, Office of Compliance, CBER.

(9)(i) The Director and Deputy Directors, Center for Food Safety and Applied Nutrition (CFSAN).

(ii) The Director, Office of Policy, Planning, and Strategic Initiatives, CFSAN.

(iii) The Director, Office of Management Systems, CFSAN.

(iv) The Director, Office of Cosmetics and Colors, CFSAN.

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(vi) The Director, Office of Seafood, CFSAN.

(vii) The Director, Office of Special Nutritional, CFSAN.

(viii) The Director, Office of Special Research Skills, CFSAN.

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(x) The Director, Office of Field Programs, CFSAN.

(xi) The Director, Office of Premarket Approval, CFSAN.

(xii) The Director, Office of Scientific Analysis and Support, CFSAN.

(10)(i) The Director and Deputy Director, Center for Devices and Radiological Health (CDRH).

(ii) The Director, Office of Management Services, CDRH.

(iii) The Director and Deputy Director, Office of Compliance, CDRH.

(iv) The Director and Deputy Director, Division of Compliance Programs, CDRH.

(v) The Director and Deputy Director, Office of Standards and Regulations, CDRH.

(11)(i) The Director and Deputy Directors, Center for Veterinary Medicine (CVM).

(ii) The Director and Deputy Director, Office of Management, CVM.

(iii) The Director and Deputy Director, Office of Surveillance and Compliance, CVM.

(iv) The Director, Division of Compliance, Office of Surveillance and Compliance, CVM.

(v) The Chief, Case Guidance Branch, Division of Compliance, Office of Surveillance and Compliance, CVM.

(12)(i) The Director and Deputy Director, National Center for Toxicological Research (NCTR).

(ii) The Director, Office of Research Support, NCTR.

(13)(i) The Director and Deputy Director, Center for Drug Evaluation and Research (CDER).

(ii) The Directors and Deputy Directors of the Offices of Management, Epidemiology and Biostatistics, Compliance, Drug Evaluation I, Drug Evaluation II, Research Resources, Generic Drugs, and Over-the-Counter Drug Evaluation, CDER.

(iii) The Chief and Freedom of Information Officers, Freedom of Information Staff, Office of Management, CDER.

(iv) The Director, Division of Management and Budget, Office of Management, CDER.

(v) The Directors of the Divisions of Drug Labeling Compliance, Drug Quality Evaluation, Manufacturing and Product Quality, and Scientific Investigations, Office of Compliance, CDER.

(14)(i) Regional Food and Drug Directors.

(ii) District Directors.

(iii) The Director, St. Louis Branch.

(iv) The Director, New York Laboratory Division, Northeast Region.

(v) The Director, Southeast Regional Laboratory, Southeast Region.

(vi) The Director, National Forensic Chemistry Center.

(b) * * *

(1) Deputy Commissioners.

(2) The Associate and Deputy Associate Commissioners.

(3) The Director, Office of Human Resources Management, Office of Management.

* * * * *

Dated: May 9, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–12398 Filed 5–18–95; 8:45 am]

BILLING CODE 4160–01–F

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21 CFR Part 520

Oral Dosage Form New Animal Drugs; Chlortetracycline Soluble Powder Concentrate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by the American Cyanamid Co. The supplemental NADA provides for the safe and effective use of chlortetracycline bisulfate (CTC bisulfate) soluble powder concentrate in the drinking water of chickens and turkeys for control of certain bacterial diseases susceptible to CTC, in the drinking water of swine, and as a drench in cattle for control and treatment of certain bacterial diseases susceptible to CTC. The approved supplemental NADA reflects compliance with findings of the National Academy of Sciences/National Research Council (NAS/NRC), Drug Efficacy Study Group's (DESI) evaluation of related drug products' effectiveness and FDA's conclusions concerning that evaluation.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT: Dianne T. McRae, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1623.

SUPPLEMENTARY INFORMATION: American Cyanamid Co., Berdan Ave., Wayne, NJ 07470, is the sponsor of NADA 55–020 which provides for use of Aureomycin® CTC (bisulfate) Soluble Powder Concentrate (available in 1/4 and 10 pound packets) containing CTC bisulfate equivalent to 102.4 grams of CTC hydrochloride (CTC HCl) per pound. The drug product is used to medicate the drinking water of chickens, turkeys, swine, calves, beef cattle, and nonlactating dairy cattle in accordance with § 520.445b(d)(4) (21 CFR 520.445b(d)(4)). The NADA was originally approved on June 7, 1963.

American Cyanamid Co. filed a supplement to NADA 55–020 revising the product labeling to conform to that approved for the firm's supplemental NADA's 65–071 (Aureomycin® (CTC HCl) Soluble Powder) and 65–440 (Aureomycin® (CTC HCl) Soluble Powder Concentrate). Approval of those supplemental NADA's was published in the **Federal Register** of August 3, 1994 (59 FR 39438). The approval reflects compliance of the products' labeling with NAS/NRC findings and FDA's concurrence with those findings.

The NAS/NRC evaluation is concerned only with the drugs' effectiveness and safety to the treated animal. It does not take into account the safety for food use of food derived from drug-treated animals. Nothing herein will constitute a bar to further proceedings with respect to questions of safety of the drug or its metabolites in food products derived from treated animals.

Supplemental NADA 55–020 is approved as of April 6, 1995, and the regulations are amended by revising § 520.445b(d)(4) to reflect the approval. The basis for this approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Under section 512(c)(2)(F)(iii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(iii)), this approval for food producing animals does not qualify for marketing exclusivity because the supplemental application does not contain reports of new clinical or field investigations (other than bioequivalence or residue studies) and new human food safety studies (other than bioequivalence or residue studies) essential to the approval and conducted or sponsored by the applicant.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

2. Section 520.445b is amended by revising paragraph (d)(4) introductory text to read as follows:

§ 520.445b Chlortetracycline powder (chlortetracycline hydrochloride or chlortetracycline bisulfate).

* * * * *

(d) * * *

(4) The following uses of chlortetracycline hydrochloride or chlortetracycline bisulfate in drinking water or drench were reviewed by the National Academy of Sciences/National Research Council (NAS/NRC) and found effective:

* * * * * *

Dated: May 4, 1995.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 95–12291 Filed 5–18–95; 8:45 am]

BILLING CODE 4160–01–F

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1258

RIN 3095–AA63

Reproduction Services; Fee Schedule

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule; confirmation of interim final rule.

SUMMARY: The National Archives and Records Administration (NARA) is adopting as a final rule the interim final rule on NARA reproduction fees. The interim rule corrected addresses and removed certain photographic reproductions and fees from the published fee schedule. This rule will affect Federal agencies and members of the public who order reproductions from NARA.

EFFECTIVE DATE: The effective date of this rule is March 6, 1995.

FOR FURTHER INFORMATION CONTACT: Mary Ann Hadyka or Nancy Allard on (301)713–6730.

SUPPLEMENTARY INFORMATION: On January 30, 1995, NARA issued an interim final rule. The effective date of the interim final rule was March 6, 1995. No comments were received during the 60-day comment period provided by the interim rule. Therefore, we are confirming in this final rule the correction of addresses and removal of published fees for certain reproductions in 36 CFR part 1258.

This rule is not a significant regulatory action for purposes of Executive Order 12866 of September 30,

1993 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities.

List of Subjects in 36 CFR Part 1258

Archives and records.

PART 1258—FEES

Accordingly, the interim final rule amending 36 CFR part 1258 which was published at 60 FR 5579 on January 30, 1995, is adopted as a final rule without change.

Dated: May 11, 1995.

Trudy Huskamp Peterson,

Acting Archivist of the United States.

[FR Doc. 95–12323 Filed 5–18–95; 8:45 am]

BILLING CODE 7515–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 264, 265, 270, and 271

[FRL–5206–9]

RIN 2060–AB94

Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of postponed effective date.

SUMMARY: This document postpones the effective date of the final rule on Hazardous Waste Treatment, Storage, and Disposal Facilities and Hazardous Waste Generators; Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers until December 6, 1995.

EFFECTIVE DATE: The final rule will be effective as of December 6, 1995. The EPA specified in the final rule a schedule that established the compliance dates by which different requirements of the rule must be met. These compliance dates and requirements are explained further in the final rule (59 FR 62896, December 6, 1994) under **SUPPLEMENTARY INFORMATION**. This document only changes the June 5, 1995 effective date to December 6, 1995; all other compliance dates for the final rule remain as published in the final rule (59 FR 62896, December 6, 1994.)

ADDRESSES: Docket. The supporting information used for the final rule is available for public inspection and copying in the RCRA docket. The RCRA docket numbers pertaining to the final rule are F–91–CESP–FFFFF, F–92–CESA–FFFFF, F–94–CESF–FFFFF, and F–94–CE2A–FFFFF. The docket is available for inspection at the EPA RCRA Docket Office (5305), Room 2616, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: For information about this postponement contact the RCRA Hotline at (800) 424–9346 toll-free, or (703) 920–9810.

SUPPLEMENTARY INFORMATION: This document announces the postponement of the effective date for the final Air Emission Standards published under the Resource Conservation and Recovery Act. These final standards were published on December 6, 1994 (59 FR 62896) and were originally scheduled to become effective as of June 5, 1995. Since promulgation, the EPA has become aware that certain provisions of the final standards may require clarification, and plans to publish a subsequent **Federal Register** document to clarify such provisions. This process may result in compliance options that facilities do not now realize are available. To ensure that all options are clear to affected facilities, and to ensure that all affected facilities have time to make any such alterations in their compliance plan prior to the effective date of the standards, EPA is postponing the effective date of the final rule for six months. The EPA considers a postponement of six months to be adequate time to allow for affected facilities to make any such necessary adjustments. The EPA also believes that it would be inequitable not to postpone the effective date in light of the possibility of increased compliance flexibility, so that a modest postponement is justified. See 5 U.S.C. 705 (''when an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review''). Therefore, the effective date of the final rule will be postponed until December 6, 1995. The final rule text affected by this change is amended as follows.

List of Subjects

40 CFR Part 264

Environmental protection, Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds.

40 CFR Part 265

Air pollution control, Hazardous waste, Insurance, Packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Water supply.

40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: May 8, 1995.

Mary D. Nichols,

Assistant Administrator Office of Air and Radiation.

For the reasons set out in the preamble, title 40, chapter I, parts 264, 265, and 271 of the Code of Federal Regulations are amended as follows:

PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

1. The authority citation for part 264 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924 and 6925.

Subpart CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

2. Section 264.1080 is amended by revising paragraphs (b)(1) and (c) to read as follows:

§ 264.1080 Applicability.

* * * * *

(b) * * *

(1) A waste management unit that holds hazardous waste placed in the unit before December 6, 1995, and in which no hazardous waste is added to the unit on or after this date.

* * * * *

(c) For the owner and operator of a facility subject to this subpart and who received a final permit under RCRA section 3005 prior to December 6, 1995, the requirements of this subpart shall be incorporated into the permit when the permit is reissued in accordance with the requirements of § 124.15 of this chapter or reviewed in accordance with the requirements of § 270.50(d) of this chapter. Until such date when the owner and operator receives a final permit incorporating the requirements of this subpart, the owner and operator is subject to the requirements of 40 CFR part 265 subpart CC.

PART 265—INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

3. The authority citation for part 265 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6924, 6925, and 6935.

Subpart CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

4. Section 265.1080 is amended by revising paragraph (b)(1) and paragraph (c) introductory text to read as follows:

§ 265.1080 Applicability.

* * * * *

(b) * * *

(1) A waste management unit that holds hazardous waste placed in the unit before December 6, 1995, and in which no hazardous waste is added to the unit on or after this date.

* * * * *

(c) For the owner and operator of a facility subject to this subpart who has received a final permit under RCRA section 3005 prior to December 6, 1995, the following requirements apply:

* * * * *

5. Section 265.1082 is amended by revising paragraphs (a) introductory text, paragraph (a)(1), (a)(2), introductory text, (a)(2)(iii), and (a)(2)(iv) to read as follows:

§ 265.1082 Schedule for implementation of air emission standards.

(a) Owners or operators of facilities existing on December 6, 1995, and subject to subparts I, J, and K of this part shall meet the following requirements:

(1) Install and begin operation of all control equipment required by this subpart by December 6, 1995, except as provided for in paragraph (a)(2) of this section.

(2) When control equipment required by this subpart cannot be installed and in operation by December 6, 1995, the owner or operator shall:

(i) * * *

(ii) * * *

(iii) For facilities subject to the recordkeeping requirements of § 265.73 of this part, the owner or operator shall enter the implementation schedule specified in paragraph (a)(2)(ii) of this section in the operating record no later than December 6, 1995.

(iv) For facilities not subject to § 265.73 of this part, the owner or operator shall enter the implementation schedule specified in paragraph (a)(2)(ii) of this section in a permanent, readily available file located at the facility no later than December 6, 1995.

* * * * *

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

6. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), and 6926.

Subpart A—Requirements for Final Authorization

7. Section 271.1(j) is amended by adding the promulgation date, **Federal Register** reference, and effective date to the following entry in Table 1 to read as follows:

§ 271.1 Purpose and scope.

* * * * *

(j) * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
*	* * * *	*	*
Dec. 6, 1994	Air Emission Standards for Tanks, Surface Impoundments, and Containers ...	59 FR 62896–62953	Dec. 6, 1995.

8. Section 271.1(j) is amended by revising the effective date and adding the **Federal Register** reference to the following entry in Table 2 to read as follows:

§ 271.1 Purpose and scope.

* * * * *

(j) * * *

TABLE 2.—SELF-IMPLEMENTING PROVISIONS OF THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Effective date	Self-implementing provision	RCRA citation	Federal Register reference
*	* * * *	*	*
Dec. 6, 1995	Air Emission Standards for Tanks, Surface Impoundments, and Containers	3004(n)	59 FR 62896–62953.

[FR Doc. 95–12367 Filed 5–18–95; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Parts 1355 and 1356

RIN 0970–AB38

Statewide Automated Child Welfare Information Systems

AGENCY: Office of Information Systems Management (OISM), ACF, HHS.

ACTION: Final rule.

SUMMARY: These final rules implement section 13713 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66). Under section 13713, funding is made available for the planning, design, development and installation of statewide automated child welfare information systems. Such systems must be comprehensive in that they must meet the requirements for an Adoption and Foster Care Analysis and Reporting

System (AFCARS) required by section 479(b)(2) of the Social Security Act (the Act) and implementing regulations; to the extent practicable, be capable of interfacing with State child abuse and neglect automated systems; to the extent practicable, be capable of interfacing with, and retrieving information from the State automated system for determining eligibility for title IV–A assistance; and, be determined by the Secretary to be likely to provide more efficient, economical, and effective administration of the programs carried out under State plans approved under title IV–B or IV–E of the Act.

Enhanced Federal funding at the 75 percent matching rate is provided for such activities as well as for the cost of hardware components effective October 1, 1993. This funding rate is eliminated under the statute after September 30, 1996, at which time a Federal matching rate of 50 percent is available. Also effective October 1, 1993, Federal financial participation at the 50 percent matching rate is available for the operation of such systems.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT: Naomi Marr (202) 401–6960.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This rule contains information collection activities which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

In accordance with the Paperwork Reduction Act of 1980, the Department resubmitted for OMB clearance the APD process, described in this document, under which States may apply for and obtain Federal financial participation in their ADP acquisitions. This reporting requirement was previously approved under OMB control number 0990–0174.

The reporting burden over and above what the States already do for the current APD approval process is estimated to average 10 hours for the initial submission of an APD. This includes time for reviewing instructions, and collecting and reporting the needed information in the APD.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing burden, to the Administration for Children and Families, 370 L'Enfant Promenade, SW, Washington, DC, 20447 and the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503, Attn: Desk Officer for ACF.

Statutory Authority

These regulations are published under the authority of several provisions of the Social Security Act (the Act), as amended by Pub. L. 103–66. Section 474(a)(3) of the Act contains new requirements providing funding for statewide automated child welfare information systems to carry out the State's programs under parts IV–B and IV–E of the Act. Under section 474(a)(3)(C), Federal financial participation at the 75 percent matching rate is available from October 1, 1993 through September 30, 1996 (after which time the rate is reduced to 50 percent), for the planning, design, development and installation of statewide automated child welfare information systems (including the full amount of expenditures for hardware components for such systems) to the extent that such systems—

(i) Meet the requirements imposed by regulations promulgated pursuant to section 479(b)(2);

(ii) To the extent practicable, are capable of interfacing with the State data collection system that collects information relating to child abuse and neglect;

(iii) To the extent practicable, have the capability of interfacing with, and retrieving information from, the State data collection system that collects information relating to the eligibility of individuals under part IV–A (for the purposes of facilitating verification of eligibility of foster children); and

(iv) Are determined by the Secretary to be likely to provide more efficient, economical and effective administration of the programs carried out under a State's plans approved under part IV–B or IV–E of the Act.

Under section 474(a)(3)(D), Federal financial participation at the 50 percent matching rate is available for the operation of the systems described above.

Section 474(e) provides that the Secretary treat as necessary for the proper and efficient administration of the State plan, all expenditures of a State necessary to plan, design, develop, install, and operate the information retrieval system under section 474(a)(3)(C), without regard to whether the systems may be used with respect to foster or adoptive children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under part IV–E of the Act.

These regulations are also published under the general authority of section 1102 of the Act which requires the Secretary to publish regulations that may be necessary for the efficient administration of the functions for which she is responsible under the Act.

Background

The title IV–E Foster Care and Adoption Assistance program provides Federal funds to States for the care of eligible dependent, abused or neglected children who must be placed in foster care, and for adoption assistance payments for certain children with special needs. The title IV–B, subpart 1 program provides Federal funds for service programs for children and their families aimed at strengthening families and preventing the unnecessary separation of children from their families; assuring adequate care by the State of children who are away from their homes; providing services to return children when separation occurs; and placing children for adoption or other permanent placement when restoration to the family is not possible or appropriate.

The title IV–B, subpart 2 program is a capped entitlement for family preservation and family support services. Family preservation services are targeted to families that are already in crisis and children who are at risk of being placed in foster care and include intensive interventions to help families weather crises, provide for reunification of families by returning home foster care children whenever possible, and by arranging for the adoption of or permanent and appropriate living arrangements for those children who cannot return home. Family support services are designed to help increase the strength and stability of families and include programs to improve and reinforce parenting skills and to provide respite care for care providers and drop-in centers for families.

In recognition of the critical need for effective statewide automated capability to support these programs in a comprehensive fashion, section 13713 of Pub. L. 103–66 amends the funding provisions under section 474 of the Act to provide for the development and operation of comprehensive information systems to assist in the administration of title IV–B and IV–E programs. To encourage States to act quickly to develop efficient comprehensive statewide automated information systems, Congress limited the availability of Federal funding at the 75 percent matching rate for statewide automated child welfare information systems (SACWIS) to Fiscal Years 1994, 1995 and 1996.

When implemented, these information systems will result in more efficient and effective practices in administering child welfare programs which in turn will ultimately result in improved service delivery. Readily available information and automated procedures to assist in case assessments and plans will allow States to be more proactive in program administration and to focus efforts on preventive services and measures rather than constantly reacting to crisis. With a single statewide automated information system, States will realize more efficient and effective processes and procedures.

An interim final rule providing the requirements for States wishing to pursue enhanced funding for the development of statewide automated child welfare information systems was published in the **Federal Register** December 22, 1993 (58 FR 67939). We received 22 letters of public comment regarding the interim final rule from State agencies and other interested parties. Specific comments and responses follow the discussion of regulatory provisions. These comments did not generate any changes to the regulatory provisions outlined in the interim final rule.

Regulatory Provisions

The requirements for the automation of comprehensive child welfare services are included under 45 CFR part 1355, which provides the general requirements for Foster Care Maintenance Payments, Adoption Assistance and Child Welfare Services. The purpose of these regulations, as provided under § 1355.50, is to set forth the requirements and procedures States must meet in order to receive Federal financial participation authorized under the Budget Reconciliation Act of 1993 for the planning, design, development, installation and operation of statewide automated child welfare information systems.

Funding authority for statewide automated child welfare information systems (SACWIS), is provided at § 1355.52 to effect the statutory provisions under section 474(a)(3)(C) of the Social Security Act authorizing funding for comprehensive child welfare systems.

Paragraph (a) provides the basic requirements a State must meet in order to be eligible for Federal financial participation at a 75 percent matching rate for fiscal years 1994, 1995 and 1996 and at a 50 percent matching rate thereafter for expenditures related to the planning, design, development and installation of a statewide automated child welfare information system.

First, under § 1355.52(a)(1), the SACWIS must provide for the collection and electronic reporting of data required under section 479(b) of the Act and the implementing regulations under § 1355.40. Under section 479(b) of the Act, States must establish and implement adoption and foster care reporting systems designed to collect uniform, reliable information on children who are under the responsibility of the State title IV–B/IV–E agency for placement and care.

Under paragraph (a)(2), the SACWIS must, to the extent practicable, provide for an interface with the State's data collection system for child abuse and neglect. The phrase ''to the extent practicable'' as used in this paragraph is statutory and reflects in part the voluntary nature of the National Child Abuse and Neglect Data Systems (NCANDS) established under Pub. L. 100–294, the Child Abuse Prevention, Adoption and Family Services Act of 1988, as well as the inherent requirement that such interface be cost beneficial to the title IV–B/IV–E programs. (For more information on the term ''practicable'' as used throughout this rule, refer to ACF–OISM–AT–95–001.)

As provided in the interim final rule, we would expect that most States would integrate the automation of child abuse and neglect activities as part of their SACWIS because of the direct association between child protection and child welfare services. While the language of the statute speaks of interfacing with child abuse and neglect data systems, we understand that in many States these data are already a part of a larger child welfare system and/or States will be considering the integration of such data as part of an overall comprehensive information/client system. Accordingly, the statewide automated child welfare information systems development effort may include automated procedures which will provide the State with the capability to meet the National Child Abuse and Neglect Data System requirements.

While we believe that such interface/integration is vital, in accordance with the statute any State which can clearly demonstrate through the submission of documentation with the advanced planning document (APD) that such integration or interface is not practicable because no automated statewide database exists to complete the interface or because of cost constraints would not be required to include this provision in the SACWIS as a condition of approval. In the latter case, the documentation should establish that the costs to develop and operate an automated interface with the existing system will exceed the combined costs of manual inquiry, verification and information exchange with the existing system, and duplicate data entry and maintenance in the SACWIS.

Similarly, paragraph (a)(3) requires that the SACWIS, to the extent practicable, provide for interface with and retrieval of information from the State automated information system that collects information relating to eligibility of individuals under title IV–A of the Act. Interface with, and access to, the data maintained by State IV–A systems is of vital importance for gathering information about clients or other relevant persons and because eligibility for foster care maintenance payments as well as adoption assistance are based in part, on a child's eligibility under the AFDC program. However, as provided in greater detail under the discussion of § 1355.53 below, this requirement need not be met if a State clearly demonstrates through the submission of documentation with the APD, as indicated under § 1355.52(a)(2), that electronic interface and data retrieval is not practicable because of limitations in the design of the IV–A system or because of cost constraints.

Finally, paragraph (a)(4) requires that the SACWIS provide for more efficient, economical and effective administration of the programs carried out under State plans approved under title IV–B and title IV–E.

As used here, efficient, economical and effective means that: the system must improve program management and administration by addressing all program services and case processing requirements by meeting the requirements of § 1355.53; the design must appropriately apply computer technology; the project must not require duplicative application system development or software maintenance; the procurement must provide for maximum free and open competition; and the costs must be reasonable, appropriate and beneficial.

Paragraph (b) provides that Federal financial participation provided under paragraph (a) is also available for the full amount of expenditures for hardware components. The matching rate provided is 75 percent with respect to Fiscal Years 1994, 1995 and 1996, and 50 percent thereafter. The general requirements applicable to the treatment of hardware expenditures under part 95 apply to all such expenditures.

Paragraph (c) provides that Federal financial participation at the 50 percent matching rate is available for the operating costs of statewide automated

child welfare information systems described under paragraph (a).

The conditions for funding systems under § 1355.52 are provided at § 1355.53. Functional guidelines providing details of these requirements were recently issued in the form of an action transmittal (ACF–OISM–AT–95–001).

Under paragraph (a), as a condition of funding, the SACWIS must be designed, developed (or an existing State system enhanced), and installed in accordance with an approved advance planning document (APD). The APD must provide for an efficient and effective design which, when implemented, will produce a comprehensive system which will improve the program management and administration of the State plans for titles IV–B and IV–E. Comprehensive means that the SACWIS must, to the extent feasible and appropriate, introduce, monitor and account for all the factors of child welfare services, foster care and adoption assistance, family preservation and support services, and independent living services, as provided under paragraph (b).

Paragraphs (b)(1) through (b)(8) provide, in accordance with section 474(a)(3)(C)(iv) of the Act, the functional requirements determined by the Secretary to be likely to provide more efficient, economical and effective administration of the programs carried out under State plans approved under part IV–B and IV–E of the Act. First, under paragraph (b)(1) the system must provide the State automated support to meet the Adoption and Foster Care reporting requirements through the collection, maintenance, integrity checking and electronic transmission of the data elements specified by the Adoption and Foster Care Analysis and Reporting System (AFCARS) requirements mandated under section 479(b) of the Act and § 1355.40 of this chapter.

Paragraph (b)(2) includes the requirements for system interface or integration necessary for the coordination of services with other Federally assisted programs and for the elimination of paperwork and duplication of data collection and data entry. Under this paragraph the SACWIS must provide for electronic data exchange with State systems for: (A) Title IV–A, (B) National Child Abuse and Neglect Data Systems (NCANDS), (C) title XIX, and (D) title IV–D, unless the State demonstrates that such interface or integration would not be practicable because of systems limitations or cost constraints.

With respect to the electronic exchange with the NCANDS and IV–A systems, these are statutory conditions of funding which must be met to the extent practicable. As indicated previously, we have defined ''practicable'' to mean that the interface requirement need not be met if the responding program system is not capable of an exchange (and the State does not wish to pursue such capability) or where cost constraints render such an interface infeasible as demonstrated by the State through the submission of documentation, in the APD, that the development and operation of such an exchange would exceed the costs of manual inquiry, verification and information exchange as well as the cost of duplicate data entry and maintenance.

Similarly, the electronic data exchange with the title XIX system is required unless the State Medicaid system does not have the capacity for such an interface or the State clearly demonstrates through the submittal of documentation that such an exchange would not otherwise be practicable because of cost constraints. The requirement for an interface with the State's child support enforcement system, unless demonstrated to be impracticable, duplicates the systems requirements under the title IV–D program, requiring statewide child support enforcement systems to provide electronic data exchange with the title IV–E program, to assure that benefits and services are provided in an integrated manner and that the State is able to collect support from the responsible parent.

Paragraph (b)(3) requires that the SACWIS enable the State to meet the provisions of section 422 of the Act by providing for the automated collection, maintenance, management and reporting of necessary information. Section 422 of the Act requires that each child in foster care under the responsibility of the State agency be afforded specific protections related to case planning, case reviews and dispositional hearings.

Accordingly, under paragraph (b)(3) the SACWIS must have automated procedures and processes to assist the State in meeting the 422 requirements. At a minimum, these automated procedures would include collection, maintenance, management and reporting of information on all children in foster care under the responsibility of the State, including statewide data from which the demographic characteristics, location and goals for foster children can be determined.

Under paragraph (b)(4), the SACWIS must provide for the collection and management of information necessary to facilitate the delivery of client services, the acceptance and referral of clients, client registration, and the evaluation of the need for services, including child welfare services under title IV–B subparts 1 and 2, family preservation and family support services, family reunification and permanent placement. This provision speaks to intake and assessment activities which include processing referrals for services, conducting investigations and determining the need for services.

Under paragraph (b)(5), the SACWIS must collect and manage information necessary to determine eligibility for the foster care program, the adoption assistance program, and the independent living program.

Paragraph (b)(6) requires that the SACWIS support necessary case assessment activities. Under this requirement, the system must have automated procedures to assist in evaluating the client's needs.

Under paragraph (b)(7), the SACWIS must assist the State in monitoring case plan development, review and management, including eligibility determinations and redeterminations.

Under this requirement the system must provide for service provision and case management which entails determining eligibility and supporting the caseworker's determination of whether continued service is warranted, the authorization and issuance of appropriate payments, the preparation of service plans, determining whether the agency can provide services, authorizing services and managing the delivery of services.

Finally, under paragraph (b)(8), the confidentiality and security of the information and the system must be ensured.

Paragraph (c) provides other program functions which may be included at State option in the SACWIS design under paragraph (a) of this section. We believe that the vast majority of States would want to incorporate these functions in their SACWIS development or enhancement activities but we are sensitive to the need for State flexibility to determine their own optimal level of automation and thus these elements are optional.

Under paragraph (c)(1), the SACWIS may provide management and tracking capability to assist the State in resource management, including automated procedures to assist in managing service providers, facilities, contracts and recruitment activities associated with foster care and adoptive families.

Under paragraph (c)(2) the SACWIS may provide for tracking and maintenance of legal and court information, and preparation of appropriate notifications to relevant parties.

Under paragraph (c)(3) the SACWIS may provide automated capability to assist in the administration and management of staff and workloads. This functionality would provide for a sensible and practical balance between the workload and workforce and provide a methodology for management to prioritize resource allocation and workload decisions.

Under paragraph (c)(4) of this section, the SACWIS may assist the State in tracking and management of licensing verification activities.

Paragraph (c)(5) provides that the SACWIS may support the State in priority setting and risk assessment or risk analysis activities. Such automated support could include an expert systems module, or rule-based automation to assist in consistent caseworker analysis and to aid in decision-making to the extent the APD justifies that such automation is both technologically and programmatically feasible as well as cost effective.

Paragraph (d), provides that the SACWIS design may at State option provide for interface with other automated information systems, including, but not limited to: accounting and licensing systems, court and juvenile justice systems, vital statistics and education, as appropriate. Such interface or integration would create a link to obtain and verify client information that is maintained in other systems to ensure appropriate delivery of services such as information on school attendance and performance. Other linkages could include resource directories and license payment systems.

Under paragraph (e), if the cost benefit analysis submitted as part of the APD indicates that full adherence to paragraph (c) and (d), would not be cost beneficial (e.g., relative to the State caseload or level of automation), final approval of the APD may be withheld pending reassessment of the State's specific automation needs and, as necessary, adjustment of the APD to reflect a level of automation which is cost beneficial. This paragraph is intended to make clear that any optional functionality to be undertaken by a State is subject to the same requirement for cost effectiveness as required of all other functional elements.

Paragraph (f) provides that a statewide automated child welfare information system may be designed, developed and installed on a phased basis, in order to allow States to implement AFCARS requirements expeditiously as long as the approved APD includes the State's plan for full implementation of a comprehensive system which meets all functional and data requirements as specified in paragraphs (a) and (b) of this section, and a design which provides for a comprehensive system and which will support these enhancements on a phased basis.

Finally, paragraph (g) requires that the system perform quality assurance functions to provide for the review of case files for accuracy, completeness and compliance with Federal requirements and State standards.

Requirements for submittal of advance planning documents are provided at § 1355.54. Under § 1355.54, Submittal of advance planning documents, the State title IV–E agency must submit an APD for a statewide automated child welfare information system, signed by the appropriate State official, in accordance with procedures specified by 45 CFR part 95, subpart F. The conditions for FFP at the applicable rates for the costs of automatic data processing incurred under an approved State plan for titles IV–A, IV–B and IV–E of the Act (among others) are contained in 45 CFR part 95, subpart F.

ACF review and assessment of statewide automated child welfare information systems is provided under § 1355.55 of this regulation. Under paragraph (a), ACF will, on a continuing basis, review, assess and inspect the planning, design, development, installation and operation of the SACWIS to determine the extent to which such systems: (1) Meet § 1355.53 of this chapter, (2) meet the goals and objectives stated in the approved APD, (3) meet the schedule, budget, and other conditions of the approved APD, and (4) comply with the automated data processing services and acquisitions procedures and requirements of 45 CFR part 95, subpart F.

Under § 1355.56, Failure to meet the conditions of the approved APD, information on the consequences and actions resulting from a State's failure to meet the conditions of the approved APD is provided. Under paragraph (a) of § 1355.56, if ACF finds that the State fails to meet any of the conditions cited in § 1355.53, or to substantially comply with the criteria, requirements and other undertakings prescribed by the approved APD, approval of the APD may be suspended.

Paragraph (b) provides events which shall take place should suspension of the APD occur. Under paragraph (b)(1), if the approval of an APD is suspended during the planning, design, development, installation, or operation of the SACWIS the State will be given written notice of the suspension stating: (A) The reason for the suspension, (B) the date of the suspension, (C) whether the suspended system complies with Part 95 criteria for 50 percent FFP, and (D) the actions required by the State for future enhanced funding.

Under paragraph (b)(2), the suspension will be effective as of the date the State failed to comply with the approved APD. Paragraph (b)(3) further provides that the suspension shall remain in effect until ACF determines that such system complies with prescribed criteria, requirements, and other undertakings for future Federal funding. Should a State cease development of an approved system, either by voluntary withdrawal or as a result of Federal suspension, paragraph (b)(4) provides that all Federal incentive funds invested to date that exceed the normal administrative FFP rate (50 percent) will be subject to recoupment.

The issue of cost allocation is addressed under § 1355.57. Under paragraph (a), all expenditures of a State to plan, design, develop, install, and operate the data collection and information retrieval system described in § 1355.53 of this chapter shall be treated as necessary for the proper and efficient administration of the State plan under title IV–E, without regard to whether the system may be used with respect to children other than those on behalf of whom foster care maintenance payments or adoption assistance payments may be made under the State plan.

Paragraph (b) provides that cost allocation and distribution for the planning, design, development, installation and operation must be in accordance with Part 95.631 and section 479(e) of the Act, if the SACWIS includes functions, processing, information collection and management, equipment or services that are not directly related to the administration of the programs carried out under the State plans approved under titles IV–B or IV–E.

A conforming provision is provided under § 1356.60, Fiscal requirements (title IV–E), in paragraph (e), Federal matching funds for SACWIS. This paragraph merely reiterates the statutory provision that all expenditures related to an approved APD under § 1355.52, will be treated as necessary for the proper and efficient administration of the State plan, without regard to whether the system is used with respect to foster or adoptive children other than those on behalf of whom foster care

maintenance or adoption assistance payments are made under title IV–E.

Response To Comments

We received a total of 22 comments on the interim final rule published in the **Federal Register** December 22, 1993, (58 FR 67939) from State agencies and other interested parties.

Specific comments and our responses follow.

General Comments

Comment: Commenters were extremely supportive of the interim final rules. They were pleased with the flexibility provided and noted that the rules incorporate the diversity of child welfare programs into a realistic automation plan. One commenter however was concerned about the limited comment period provided.

Response: We believe that the partnership strategy employed in developing these rules fostered a positive dialogue between the Federal government and States and led to the development of a better rulemaking document which provides States with the tools they need to improve IV–B/IV–E effectiveness. As indicated in the preamble to the interim final rule, in developing these rules we relied heavily on information from existing State efforts to establish systems and the efforts of a State and Federal child welfare system workgroup.

So that the States could begin development and avoid the risk that the rules would change, we restricted the comment period to 30 days in an effort to quickly identify whether there were any fundamental problems or concerns with the terms of the interim rules which would have necessitated a major change in direction in the final rule. We felt this was critical because of the relatively short window of opportunity related to the availability of enhanced funding.

Requirements for FFP

Comment: One commenter questioned the criteria used to distinguish between development and operation and asked how implementation costs will be funded. Another commenter asked at what point a system is considered operational for the purpose of claiming expenditures at the regular rate, particularly under a phased approach.

Response: Enhanced funding is available for the planning, design development and installation of a SACWIS, while operational costs are funded at the regular administrative match rate. We view implementation costs as part of design, development and installation of the system. The State's ability to claim enhanced funding ceases when the system (or portion of the SACWIS, in a phased development effort) has successfully passed a pilot test and is used to support child welfare activities in an automated fashion in any geographical area. However, a State may continue to claim enhanced funding for costs associated with the planning, design, development and installation of a subsequent phase of the total project, as well as allowable installation costs (e.g., conversion and training activities) for parts of the State that have not yet been converted to the new system.

As provided in ACF–OISM–AT–95–001, the operational stage of the SACWIS is the point at which the system is used for automated processing. The implementation APD covers the design, development and installation of the SACWIS. It should also be noted that hardware costs are eligible for 75 percent matching within the window provided by statute regardless of the operational status of the system.

HHS and the Food and Consumer Service (formerly the Food and Nutrition Service) published changes to our information technology policies regarding the depreciation or expensing of data processing equipment (Action Transmittal AT–94–5, dated July 22, 1994). Equipment having a useful life of more than one year and a unit acquisition cost of less than $5,000 may now be expensed for the quarter in which it is purchased. These recent policy changes should allow States to expense a large portion of the hardware necessary for SACWIS; however, there will still remain hardware with a unit acquisition cost of greater than $5,000. For equipment that falls into this category, the State must either depreciate or charge use allowance for the cost of the equipment over its useful life, and in accordance with statewide accounting practice.

For more information, see 45 CFR part 95, subpart F, ''Automated Data Processing Equipment and Services; Conditions for Federal Financial Participation (FFP).''

Comment: One commenter asked what effect the rules will have on current and future claims at the 50 percent matching rate for systems enhancements that may not meet these requirements. Another commenter asked whether the effective date limitation means that the entire system must be accepted prior to September 30, 1996 for enhanced funding to be available.

Response: In response to the first commenter, these rules apply only to systems funded at the enhanced matching rate provided in the 1993 legislation. However, any system initially funded under these rules would continue to be subject to these requirements even after the start of FY 1997 when the enhanced funding allowance expires.

With respect to the second comment, the system need not be fully operational by September 30, 1996 to receive enhanced funding. As provided in ACF–OISM–95–001, the three-year window for claiming enhanced funding does not mean that the project must be completed prior to the expiration of the availability of enhanced funding. However, even though the project may not be complete within this time, the statute is clear that expenditures after this date are no longer eligible for enhanced funding.

Comment: A number of commenters expressed concern that the three year window for enhanced funding is too short, especially for States which are starting with primitive systems or which require the consent of the State legislature. Others were concerned with the limitation in light of their immediate need to meet the AFCARS requirements.

Response: The three-year time limit on the availability of enhanced funding for statewide automated child welfare information systems is contained in statute and we have no statutory authority to extend the availability of this funding rate. With respect to the second point, however, we understand that States may have difficulty in dedicating the necessary time and resources to meet the AFCARS and SACWIS requirements concurrently and for this reason the rule provides a phase-in strategy to allow the AFCARS requirements of the system to be pursued first.

As provided in ACF–OISM–AT–95–001, a phased approach might allow the roll-out of a system on a phased basis under which workers could begin to use some of the planned functionality of the system, such as enhanced data collection capability which would enable compliance with the AFCARS reporting requirements, while additional modules or components are not yet available.

Functional Requirements

Comment: One commenter asked whether guidance will be offered to assure that States have a clear understanding of the systems requirements.

Response: Since issuance of the interim final rule, general guidance on systems requirements and functionality has been provided to the States in

several forums, such as the semi-annual ACF User Group Meeting, various ACF sponsored State technical advisory groups, System and Child Welfare related conferences, State and Federal Child Welfare Collaboratives, and issuance of a draft and final version of a child welfare related action transmittal (ACF–OISM–AT–95–001). As indicated in the interim final rule, we stand ready to assist in the planning, design, development and installation of a SACWIS upon request.

Comment: One commenter was concerned that the requirements are too client focused, rather than family focused, stating that in a system growing out of concern for family preservation, there needs to be greater attention to the identification of the strengths and needs of the family.

Response: We disagree with the commenter and believe that the SACWIS design envisioned under this rule supports the family. These projects are intended to be more than information systems but rather comprehensive tools to make service delivery more responsive to the needs of families and communities. It is our strong expectation, which we had hoped to convey in the interim final rule, that States will take advantage of this opportunity to move the child welfare service system into a direction which would lead to a more coordinated, flexible system, built on and linked to existing community services and support able to serve children and their families in a more effective way.

A. Interfaces

Comment: One commenter asked about the availability of FFP for systems modifications to enable the interface and data exchange requirements with SACWIS to be met. Another requested additional clarification as to what must be addressed in an interface component. Still another asked if the cost of an interface is placed completely on the State's child welfare agency and questioned the role of the agencies with jurisdiction over IV–A, Medicaid and IV–D?

Response: As provided in ACF–OISM–AT–95–001, FFP is available for the IV–B/IV–E portion of the interface. FFP is not available for the cost of automating the respondent agency. Because we have no legislative authority to pay for the reciprocating end of any interface, any modifications to another existing system to support an interface with a SACWIS (optional or required) must be funded by the program that supports the system to which this interface is being established.

To the extent that such programs are automated, the SACWIS would be required to establish an interface. Where these entities are not automated, no automated interface is possible, and the State will not need to fulfill this requirement. Further, as provided in the above cited action transmittal, FFP is not available to develop functionality in a SACWIS when it duplicates functionality which already exists in other State system(s) to which an interface is required.

The purpose of these requirements is to provide integrated services to clients through more accurate, timely and effective exchange of information.

Comment: One commenter asked that we provide clarification on cost allocation procedures between programs sharing data for purposes of the interface requirements.

Response: As indicated above, FFP is not available to develop functionality when it duplicates functions which already exist in another State system. If a function supports but does not exclusively or primarily benefit the program under title IV–E or IV–B, the cost must be allocated among all benefitting programs. To illustrate, our action transmittal provided the example of factors pertaining to the determination of eligibility for an income maintenance program such as AFDC. While the determination of eligibility for such benefits is clearly linked to the provision of services to children and families under title IV–E and IV–B, it is not reasonable to allocate the cost of developing eligibility subsystems or modules to title IV–E as the primary program benefitting from such automation. In these cases, the cost must be allocated between title IV–E and the other benefitting eligibility processes.

The issue of cost allocation is addressed in more detail in response to comments later in the preamble and in ACF–OISM–AT–95–001.

Comment: One commenter requested clarification of the requirement for interface with the IV–A (AFDC) and IV–D (child support enforcement) programs.

Response: We believe each of the interfaces referenced by the commenter are important to SACWIS development in that they are intricately related to the title IV–E program. Title IV–A eligibility is a determining factor in title IV–E eligibility. Further, the requirement for an interface where practicable between the SACWIS and the State's IV–A system is mandated in statute. The title IV–D interface requirement replicates a functional requirement of a certified IV–D system. Interface between the child support agency and the SACWIS may be extremely beneficial to the goals of both programs in that it may assist in the collection of increased child support on behalf of children receiving child welfare services and could assist in the unification and permanent placement of children with formerly noncustodial parents.

As with the requirements for interface with the State Medicaid agency and the State child abuse and neglect system, we believe an electronic interface will be far more effective in service delivery than redundant data entry to multiple systems.

B. Case Assessment Activities

Comment: One commenter was concerned that the approach to services is not sufficiently individual and stated that an adequate SACWIS needs to support a sophisticated and highly individualized approach to the provision of services.

Response: Automation is intended to *assist* workers' needs in effective service delivery, not supersede their judgment. We wholeheartedly agree that individual assessment is critical but believe that the system can support and inform the caseworker by ensuring that the right questions are asked and addressed.

C. Confidentiality and Security

Comment: One commenter was particularly concerned about the requirement that the State agency responsible for the APD be accountable for the confidentiality of the SACWIS and raised related concerns regarding access to information and the cross-training of agency workers. Concern was raised by another commenter that the rule does not mention confidentiality which the commenter considers to be an important aspect of any required cross-agency interface. Still another questioned how confidentiality of information can be assured in an interface system and what rules the agency with jurisdiction over IV–A, IV–D and Medicaid have for treatment?

Response: These regulations require under § 1355.53, that at a minimum the SACWIS must ensure the confidentiality and security of the information and the system. Under this requirement, States are expected to build systems which provide necessary safeguards which would, for example, enable them to share information, when such sharing is legal and appropriate, without identifying the source, or which would enable them to limit access to specific data elements.

Each of the programs subject to an interface expectation is also subject to

specific statutory confidentiality requirements which the system must provide. However, Federal statute and regulations allow, and in many cases require, designated State agencies to disclose confidential information to other State agencies for the purpose of administering other Federal programs. Thus, confidentiality rules should not be an obstacle to the development of an effective interface with the systems used to administer the title IV–A, IV–D and XIX programs.

For more information on the issue of confidentiality, see our action transmittal, ACF–OISM–AT–95–001.

Optional Functionality

Comment: One commenter expressed hope that the final regulations will speak to the importance of incorporating outcome measure data collection within the comprehensive system development and that data collection specifically related to capturing training information for State staff be provided as an optional feature.

Response: We agree that data collection to support outcome measures are important to comprehensive systems design and believe that we have provided States with flexibility to incorporate these measures in their SACWIS. Data collection necessary to support outcome measures are integral to meeting the AFCARS requirements and are also embraced under § 1355.53(g), which requires that the system perform Quality Assurance functions for the review of casefiles for accuracy, completeness and compliance with Federal requirements as well as State standards. This would include generation of summary management reports and exception reports related to services needed and provided.

With respect to the second point, under § 1355.53(c)(1), the system may perform functions related to resource management which would include information captured for training purposes.

Comment: One commenter asked whether the provision at § 1355.53(c)(3) includes *systems* administration or administration of staff and workload and asked for clarification of whether costs associated with systems administration are eligible for enhanced funding and then regular funding for operational costs.

Response: Under § 1355.53(c)(3) the SACWIS may provide automated capability to assist in the administration and management of *staff and workloads*. This would provide a methodology for management to prioritize resource allocation and workload decisions to support program staff. It is not intended to provide systems administrative support.

Comment: One commenter asked for clarification of whether the allowance at § 1355.53(c)(5), i.e., that the system may provide for risk analysis, was the same as risk assessment.

Response: Yes, as used under § 1355.53(c)(5) risk analysis is the same as risk assessment.

Comment: Also regarding risk analysis, one commenter expressed concern that ACF may be suggesting that commercially-available off-the-shelf (COTS) technology is limited in use to the area mentioned in the regulation and encouraged ACF to restate the position on this technology and its use so it is clear that they are not restricting it in some manner or endorsing any particular system approach. The commenter further questioned ACF's reference to ''rule based'' automation and noted that COTS technology is far preferable to the customized rule based software modules which have been embedded in other human service systems.

Response: It was not our intent to suggest that commercially available off the shelf technology (COTS) is either limited in its use or inferior to customized rule based technology. However, we are not aware of a COTS package available today that will meet the case management, service delivery and automated support needed to qualify as a SACWIS. A State may build or transfer a customized application software which is enabled by a COTS software development tool.

Comment: One commenter questioned whether the intent of § 1355.53(e) was to provide that if one of the optional functions under paragraph (c) and (d) is not cost beneficial, final approval of the APD may be withheld.

Response: Paragraphs (c) and (d) of § 1355.53 are optional levels of system functionality which States have discretion to adopt, and for which enhanced funding may be provided, if such functionality will be efficient and effective. However, if a State decides to include any or all of these elements in their SACWIS design, the APD would have to indicate that their inclusion would not negatively affect the cost-effectiveness of the system. The fact that they are optional functions does not eliminate the requirement that the system design prove to be cost beneficial. For example, if in a given State inclusion of one or more of these elements resulted in over-automation for demographic reasons, that is, automated to a level beyond the State's needs and thus was not cost beneficial, approval of the APD would be withheld until the area of over-automation was dropped.

If it is shown through the cost benefit assessment that it is more cost-effective not to automate to the degree provided under the optional functionality, approval of the APD may be withheld.

Comment: We were asked by one commenter to state that the ''mays'' of the system are purely optional. This commenter also remarked that States should not have to justify why these functions are not included in their APD.

Response: We would reiterate that the functionality included under paragraphs (c) and (d) of § 1355.53 are State options as indicated in the preamble. If a State chooses not to include these elements in their SACWIS design, no justification is necessary in the APD. However, as provided under paragraph (e), if any of these items is included, the State must indicate in the APD that such element(s) will be cost beneficial.

Comment: One commenter asked for clarification regarding what functions can reside within a statewide payment system and what is *required* for the SACWIS.

Response: We are not limiting the use or functions of statewide payment systems under this regulation. States have flexibility to continue to use such systems as long as the IV–B/IV–E related information necessary to meet these regulations is accessible through communication or link with the SACWIS. In this case, enhanced funding may be claimed for the interface to the existing statewide payment system. However, any modifications to a separate system must be allocated to all benefitting programs affected by such modification. Any costs allocable to title IV–B or IV–E for such modifications will only be matched at the regular funding rate.

Comment: One commenter questioned whether it would be possible to modify the APD at a later date to include optional interfaces.

Response: Yes, under § 1355.53(d), the system may interface with other automated information systems. This could be included under the original APD or as an amendment to the APD, as long as the State can show, in accordance with paragraph (e), that such an interface would be cost beneficial.

Comment: One commenter stated appreciation for the section in the rules that addresses optional systems functions, acknowledging that not all States will be in a position to develop systems so far reaching.

Response: Our intent was to outline the level of functionality we thought appropriate for the vast majority of

States while recognizing the need for maximum State flexibility.

Comment: We were asked by one commenter to clarify whether the need for a cost benefit analysis in the APD process could be waived.

Response: The need for a cost benefit analysis in the APD cannot be waived. Cost benefit analyses are a required portion of all APDs, necessary to determine efficiency, effectiveness and economy of system design. As noted in the preamble to the interim final rule, OBRA '93, in authorizing enhanced funding for automated information systems for family and children's programs, specifically requires for the first time that the Secretary include economic considerations along with the traditional statutory provisions for systems implementation of ''efficiency and effectiveness'' in determining whether a system should be funded. In accordance with existing requirements at 45 CFR Part 95, before a project is approved the State must present a cost benefit analysis as part of an APD. We have issued technical assistance in this area in the form of a publication entitled *Feasibility, Alternatives, and Cost/Benefit Analysis Guide.* Following our initial publication, we issued additional guidance entitled *Companion Guide Cost/Benefit Analysis Illustrated.* Both of these documents are available through ACF.

Sound management practices require that a State perform a cost/benefit analysis of any proposed undertaking which would result in the expenditure of a large amount of funds.

Comment: One commenter suggested that it might be helpful to revise the language in § 1355.53(e) to provide ''any function described under paragraph (c) and (d) included in the APD by the State will require cost justification or final approval of the APD may be withheld.''

Response: Under paragraph (e), if a State chooses to include optional functionality in its system design, such functions are subject to all cost benefit tests required of any other functional specification. If a State cannot design a system including such optional functionality in a manner that proves cost beneficial in the APD, approval of the APD may be withheld until such time as the system is designed in such a manner that it is cost beneficial.

While the language suggested by the commenter is acceptable, since we did not receive a substantial number of questions on this issue, we are not revising the language from that provided in the interim final rule.

Comment: Paragraph (f) of § 1355.53 provides that a statewide automated child welfare information system may be designed, developed and installed on a phased basis, in order to allow States to implement AFCARS requirements expeditiously, in accordance with section 479(b) of the Act, as long as the APD includes the State's plan for full implementation of a comprehensive system which meets all functional requirements and a system design which will support these enhancements on a phased basis. According to a commenter, it is not clear in the case of a State which has included mandatory components and optional components whether they only have to meet the mandatory components addressed in the APD to keep from jeopardizing their enhanced match.

Several commenters indicated that they were pleased with the phased approach. One of these requested clarification on enhanced funding allowed for the development of non-required features.

Response: With respect to the first comment, if a State initially anticipates developing a system on a phased basis which includes mandatory and optional functionality and later decides not to pursue the optional elements, they would not jeopardize the enhanced funding. In such a case, we would simply adjust funding approvals to reflect changes for the cost of the optional elements which were dropped from the systems effort. Corresponding changes will be required in the cost-benefit analysis for the project to reflect the anticipated differences in cost-effectiveness resulting from the change in systems functionality. However, we expect such situations to be rare and that APDs will realistically provide what the State can do.

With respect to the latter comment, optional elements are eligible for enhanced funding as long as other general requirements for enhanced funding are met.

Comment: One commenter expressed the view that the term quality assurance functions has no singular or clear meaning in the child welfare or social services arena and stated that States should not be expected to perform functions beyond their current staffing and legislative mandates and scope.

Another commenter indicated that this provision might be troubling because it sounds like the system would need to include almost the entire casefile in order to perform the functions necessary to assure compliance with Federal requirements and State standards. The commenter questioned this mandate since it was not in statute.

Other commenters requested clarification of why the quality assurance function is needed and said the definition should include whether it is related to data integrity for AFCARS or rather review of a casefile to assure compliance with program policy requirements. One commenter asked for further guidance on the requirements for quality assurance functions to provide for review of casefiles.

Response: While not specifically mandated by statute, we believe the requirement for quality assurance capability is necessary to meet the statutory requirements of efficiency, economy and effectiveness. Since a State's SACWIS is intended to be the source of child welfare information, it is essential that the State have in place a process to ensure the quality and completeness of the data. As provided in our action transmittal (ACF–OISM–AT–95–001), it is essential that the system incorporate quality assurance measures, processes and functions to ensure completeness, accuracy and consistency of critical data and to support sound management practices. The requirement is intended to ensure that all current and historical information and data maintained by the system are kept in logical sequence, and accessible in a timely manner to monitor operation and assess performance. With respect to the commenter's concern about the need for the system to maintain the State's entire casefile, we would remind the commenter that such a requirement is inherent in the statutory requirement that the system meet the SACWIS case management and AFCARS requirements, to the extent that these requirements comprise the most significant data elements included in the casefile.

Further guidance on meeting the requirements for quality assurance are detailed in our action transmittal referenced above.

Comment: One commenter stated that quality assurance functions are focused on agency process rather than outcomes for children and families and expressed concern that while good attention is given to documenting service delivery only minimal attention is given to outcome measures. The commenter was concerned that an adequate SACWIS must not only address the scope of services but their effectiveness.

Response: We encourage States to use their SACWIS as a means for measuring the effectiveness of service delivery. Furthermore, we believe that the language is flexible enough to allow States to address outcome measures as part of their SACWIS effort. However, effective outcome measures of service delivery do not ensure the accuracy and

completeness of data, and while we encourage State to use the flexibility allowed, it is essential that the system incorporate quality assurance measures to ensure the completeness, accuracy and consistency of critical data.

Comment: One commenter stated a desire to see a statement in the optional section that allows the Secretary to approve other enhancements to the child welfare automated systems not mentioned in this section but which will result in a comprehensive system.

Response: Additional functionality beyond what is defined in § 1355.53 of the regulation may be funded at the enhanced rate as long as the State can demonstrate that it will provide more efficient, economical and effective administration of the programs under title IV–B and IV–E. To be eligible, added functionality may not duplicate functionality included in an existing system to which an interface is required and the APD must address the cost benefit of the optional functionality requested for approval by the State.

APD Submission

Comment: One respondent asked how States which have already submitted an APD expressing the intent to seek funding for a comprehensive system should submit claims now for the enhanced funding.

Response: Such States would submit requests using existing form IV–E–12, State Quarterly Report of Expenditures and Estimates, and following existing procedures for requesting program funding under title IV–E. Procedures for submitting APDs are specified by 45 CFR part 95, subpart F.

Comment: Two commenters expressed agreement with the transfer policy provided in the interim final rule. However, another requested that systems transfer be addressed in the final rule. Still another suggested that system transfer may not be the best solution.

Response: As stated in the preamble to the interim final rule, our intent in publishing these rules is to provide States necessary flexibility to develop systems fitting their individual needs. Under part 95 requirements, a State must conduct an alternative analysis to consider both the enhancement of any existing systems and the transfer of a system to determine the most cost effective approach. However, as noted in the interim final rule, we recognize that at this time, there is only limited State experience in comprehensive child welfare systems development. Because of the limited scope of current comprehensive child welfare systems, a flexible approach has been adopted in considering justifications for not transferring existing systems.

Comment: Two commenters expressed interest in pursuing any technical assistance which ACF can provide. Another commenter questioned how technical assistance can be provided when ACF Regional Office staff have no travel money.

Response: Budget limitations often necessitate difficult decisions concerning allocation of resources, including decisions which may serve to limit the availability of on-site technical assistance. However, we do not believe that technical assistance must necessarily be on-site to be effective. In fact, we are hopeful that our action transmittal and our involvement in national users meeting and conferences have alleviated much of the need for on-site assistance. Furthermore, ACF has awarded a contract to assist in the development of a Child Welfare prototype system. As part of that contract, we will sponsor several national and regional conferences to share information and provide technical assistance to States. Central and Regional Office staff stand ready to provide States with help upon request.

Comment: One commenter asked whether, in the interest of saving time, if it is possible to share APD work being done by various other States and whether the Federal government will facilitate sharing. Another expressed interest in efforts to develop a consortia of States with similar commitments to permit more rapid and efficient development of systems which have greater capability to produce information of quality.

Response: We have and will continue to share system related documents, such as APDs, RFPs and other design documents, as they become available. These materials are available to the public upon request. We have distributed information to various States, child welfare related foundations, vendors and other public interest groups. We have entered into partnerships with States to coordinate the joint design of child welfare information systems. We have established different State Technical Advisory groups to identify the best approaches for sharing information. We have participated in regional and national system and child welfare conference and we will continue to encourage the sharing of State experience at the ACF Users Group meetings.

Review and Assessment and Part 95 Requirements

Comment: One commenter stated that depreciation of equipment is a major concern. For many States the three year window could conceivably be very narrow for the planning, design and development phases, especially under a phased-in approach and for States just entering the planning phase and asked that this be addressed in the guidance provided under an action transmittal.

Others stated that the depreciation period should be over the same period as the availability of enhanced funding, i.e., equipment should be depreciated over a three year period instead of a five year time span.

These commenters point out that the regulation appears to conflict with the statute which states that payments to States ''including 75 percent of the full amount of expenditures for hardware components for such system'' and suggested that since enhanced funding is available for only 3 years, the rule should reflect an exception to the 5-year depreciation schedule requirements.

On a related issue, commenters thought that language on financing of hardware appears to be the same as depreciation and suggested that expensing be instituted.

Response: As provided in our action transmittal, recent policy changes delineated at ACF–AT–94–5, dated July 22, 1994, may allow States to expense a large portion of the hardware necessary for SACWIS. For additional information, see ACF–OISM–AT–95–001.

However, the statute explicitly eliminates enhanced funding for system activities as of October 1, 1996. We have no authority to adjust this statutory date or to revise the Department's requirements for capitalization and depreciation of equipment in this final rule. The controlling requirements for depreciation are found in 45 CFR part 95, subparts F and G.

Comment: One commenter recommended that a clear timeframe for review and assessment of the systems be provided to allow States to view the process as cooperative, supportive and one that allows regular feedback, technical support and a mechanism for State accountability.

Response: As indicated previously, technical assistance is available to ensure that the process for APD review and approval and subsequent system approval is as cooperative and supportive as possible. Unlike the case with other State systems, the review process established does not entail a certification requirement in order to allow maximum flexibility.

Comment: With respect to the submittal of Advance Planning Document Updates, one commenter noted that meeting the timeframe for submitting an APD may be problematic due to new Federal requirements, identification of proposed project changes and the internal State review process.

Similarly, another commenter expressed concern that the timeframe will be difficult for some States to meet and encouraged ACF to actively seek out States to which this section applied to ensure they understand the importance of meeting this critical deadline.

Response: The regulations at 45 CFR 95.605(3)(b), indicate that a State must submit an As Needed APD Update when significant changes are expected to a project. We have identified and worked with the States affected by this requirement and have either granted final or conditional approval of their APD Updates. None of the concerned States were adversely affected by this requirement.

Comment: On a miscellaneous issue, one commenter noted that paragraph (b) has been reserved under 45 CFR 95.641 or 45 CFR 1355.55 and questioned this.

Response: The issue raised by the commenter merely speaks to a regulatory drafting requirement. Under regulatory drafting rules it is inappropriate to refer to a paragraph designated as ''(a)'' without referencing a ''(b)'' cite. There are no plans to add to this section.

Failure to Meet the Condition of the Approved APD

Comment: One commenter thought that it was unclear whether recoupment of enhanced FFP applies only to those components of the APD that are required under 45 CFR 1355.53. States could develop an APD that proposes to develop an automated system that included some permissive components, develop required components and then fail to get sufficient funding to complete the permissive components. States should not be penalized for revising the APD downward as long as they meet the minimum requirements.

Response: While we would hope that States would ensure that their plans are realistic prior to submittal, States would not be penalized in cases where optional automation plans were dropped, unless such changes negatively affected either the cost-effectiveness of the system or the State's ability to complete the project successfully. In such cases, if a State pulled back on discretionary items, we would simply recalculate funding to make the necessary adjustments.

Comment: Another commenter noted that § 1355.56 provides that failure to meet the conditions of these regulations may result in an approved APD being suspended while at the same time recognizing that penalties are provided for failure to comply with the AFCARS regulations. The commenter was concerned that this could put States in the position of being unable to meet AFCARS because of a loss of SACWIS funding.

Response: We would like to clarify that the loss of funding discussed with respect to § 1355.56 refers only to enhanced funding for SACWIS and good systems planning would ensure that no State is put in the position of losing this funding.

We agree that there is a strong interrelationship between AFCARS implementation and SACWIS development and for this reason have allowed States to implement their SACWIS on a phased based to ensure that AFCARS requirements are met expeditiously.

Cost allocation

Comment: One commenter expressed interest that we acknowledge that systems transfer from another State may not be the best solution, but shared development (and funding) program to program in the State be encouraged.

Another asked that we provide more detail on cost allocation.

Response: We agree that systems transfer from another State may not be the best solution in SACWIS design and, as indicated in the preamble to the interim final rule, plan to be flexible in our consideration of State analysis provided in the APD for not going this route in SACWIS development.

For information regarding the effect of shared development on cost allocation or for detailed specification of the cost allocation requirement, please see our action transmittal, ACF–OISM–AT–95–001.

Regulatory Impact Analysis

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. An assessment of the costs and benefits of available regulatory alternatives (including not regulating) demonstrated that the approach taken in the regulation is the most cost-effective and least burdensome while still achieving the regulatory objectives.

Regulatory Flexibility Analysis

Consistent with the Regulatory Flexibility Act (Pub. L. 96–354) which requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses and other small entities, the Secretary certifies that this rule has no significant effect on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

List of Subjects

45 CFR Part 1355

Adoption and foster care, Child welfare, Data collection, Definitions grant programs—Social programs

45 CFR Part 1356

Adoption and foster Care, Administrative costs, Child welfare, Fiscal requirements (title IV–E), Grant programs—social programs, Statewide information systems

(Catalog of Federal Domestic Assistance Program No. 13.658, Foster Care Maintenance, 13.659, Adoption Assistance and 13.645, Child Welfare Services—State Grants)

Approved: April 5, 1995.

Mary Jo Bane,

Assistant Secretary for Children and Families.

Accordingly, the interim rule amending 45 CFR Parts 1355 and 1356 which was published at 58 FR 67939 on December 22, 1993, is adopted as a final rule with the following change:

PART 1355—GENERAL

1. The authority citation for Part 1355 continues to read as follows:

Authority: 42 U.S.C. 620 et seq., 42 U.S.C. 670 et seq.; 42 U.S.C. 1301 and 1302.

§ 1355.53 [Amended]

2. Section 1355.53(b)(3) is amended by replacing the reference to ''section 427'' in the first line with a reference to ''section 422.''

[FR Doc. 95–11909 Filed 5–18–95; 8:45 am]

BILLING CODE 4184–01–P

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub-No. 35)]

Rail General Exemption Authority—Exemption of Ferrous Recyclables

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: Pursuant to its authority, the Commission is exempting from regulation the transportation by rail of iron and steel scrap (STCC No. 40–211) and steel shipping containers (STCC No. 34–912). These commodities are added to the list of exempt commodities, as set forth below.

EFFECTIVE DATE: June 18, 1995.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: On August 24, 1994, at 59 FR 43528, we requested comments on a proposal by the Association of American Railroads (AAR) and the Institute of Scrap Recycling Industries, Inc. (ISRI) (collectively, petitioners), to exempt from regulation under 49 U.S.C. 10505 the rail transportation of certain ferrous recyclables. After receiving and analyzing the comments filed in this proceeding, we now partially approve petitioners' proposal. We exempt iron and steel scrap (STCC No. 40–211) and steel shipping containers (STCC No. 34–912) from regulation, but decline at this time to exempt blast furnace, open hearth, rolling mill, or coke oven products, NEC (STCC No. 33–119).

We reaffirm our initial finding that the exemption will not significantly affect either the quality of the human environment or the conservation of energy resources.

We also reaffirm our initial finding that the exemption will not have a significant economic impact on a substantial number of small entities.

For further information, see the Commission's printed decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Interstate Commerce Commission Building, 1201 Constitution Avenue, NW., Room 2229, Washington, DC 20423. Telephone (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

List of Subjects in 49 CFR Part 1039

Intermodal transportation, Manufactured commodities, Railroads.

Decided: April 28, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

For the reasons set forth in the preamble, title 49, chapter X, part 1039 of the Code of Federal Regulations is amended as follows:

PART 1039—EXEMPTIONS

1. The authority citation for part 1039 continues to read as follows:

Authority: 49 U.S.C. 10321 and 10505; and 5 U.S.C. 553.

2. In § 1039.11, paragraph (a), the following new entries are added at the end of the table to read as follows:

§ 1039.11 Miscellaneous commodities exemptions.

(a) * * *

STCC No.		STCC tariff	Commodity
*		* *	* *
34	912	6001–W, eff. 1–1–95..	Steel shipping containers.
40	211	.....do	Iron and steel scrap.

* * * * *

[FR Doc. 95–12338 Filed 5–18–95; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 950106003–5070–02; I.D. 051595G]

Pacific Halibut Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason action; vessel clearance procedures.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission (IPHC), publishes this inseason action pursuant to IPHC regulations approved by the U.S. Government to govern the Pacific halibut fishery. This action is intended to enhance the conservation of the Pacific halibut stock in order to help sustain it at an adequate level in the northern Pacific Ocean and Bering Sea.

EFFECTIVE DATE: March 15, 1995, through December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen Pennoyer, 907–586–7221; William W. Stelle, Jr., 206–526–6140; or Donald McCaughran, 206–634–1838.

SUPPLEMENTARY INFORMATION: The IPHC, under the Convention between the United States of America and Canada for the preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29 1979), has issued this inseason action pursuant to IPHC regulations governing the Pacific halibut fishery. The regulations have been approved by NMFS (60 FR 14651, March 20, 1995). On behalf of the IPHC, this inseason action is published in the **Federal Register** to provide additional notice of its effectiveness, and to inform persons subject to the inseason action of the restrictions and requirements established therein.

Inseason Action

1995 Bering Sea Halibut Vessel Clearance Procedures

All halibut vessels fishing in Area 4A must obtain a vessel clearance from a designated fish processor either in Akutan or Dutch Harbor both prior to fishing, and prior to unloading.

All halibut vessels fishing in Area 4B must obtain a vessel clearance from Atka Pride Seafoods in Nazan Bay on Atka Island, both prior to fishing and prior to unloading and/or departure from Area 4B. The vessel operator must obtain the clearance required prior to fishing, in person. The clearance required after fishing may be obtained in person, or via VHF radio (call on VHF channel 6) as long as the person granting the clearance can visually confirm the identity of the vessel. Vessels that fish only in Area 4B and land their entire annual halibut catch at a port within Area 4B are exempt from the vessel clearance requirements.

All halibut vessels fishing in Area 4C and 4D must obtain a vessel clearance prior to fishing from a designated fish processor in either Akutan or Dutch Harbor. The vessel clearance required prior to unloading must be obtained at St. George or St. Paul, either in person, or via VHF radio as long as the person granting the clearance can visually confirm the identity of the vessel. Clearance at St. George can be obtained from the harbor master (call on VHF channel 16). Clearance at St. Paul can be obtained from either Trident Seafoods (call on VHF channel 73) or from Unisea (call on VHF channel 74). Vessels that only fish in Area 4C and land their total annual halibut catch at a port within Area 4C are exempt from the vessel clearance requirements. Vessels that fish only in Area 4D and 4E, and land their total annual halibut catch at a port within Areas 4D, 4E, or the Bering Sea closed area, are also exempt from the vessel clearance requirements.

Vessel clearances can only be obtained between 0600 hours and 1800 hours, local time. No halibut may be on board the vessel at the time of obtaining the clearance required prior to fishing in Area 4.

The clearance form for all vessel clearances obtained in person must be signed by the vessel operator. The clearance form for all vessel clearances obtained by VHF radio must be signed by the issuing officer.

Dated: May 15, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–12387 Filed 5–18–95; 8:45 am]

BILLING CODE 3510–22–F

50 CFR Part 651

[Docket No. 950410096–5135–02; I.D. 050595B]

RIN 0648–AH66

Northeast Multispecies Fishery; Exemption Supplement to Framework 9

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to modify the regulations implementing the Northeast Multispecies Fishery Management Plan (FMP). This rule allows a small mesh fishery exemption within specific areas and during specific times in the Gulf of Maine/Georges Bank (GOM/GB) Small Mesh Exemption Area and the retention and landing of skate by vessels fishing in the New York and Connecticut State Waters Winter Flounder Small Mesh Exemption Program. The Acting Director, Northeast Region, NMFS (Regional Director), has determined that these fisheries meet the exemption qualification requirements specified in § 651.20 (a)(7) and (c)(5). This rule also makes two corrections to the multispecies regulations.

EFFECTIVE DATE: May 15, 1995.

ADDRESSES: Copies of Amendment 5 to the FMP, its regulatory impact review (RIR) and the initial regulatory flexibility analysis contained within the RIR, its final supplemental environmental impact statement, and Framework Adjustment 9 and its supporting analyses are available upon request from Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1097.

FOR FURTHER INFORMATION CONTACT: Susan A. Murphy, NMFS, Fishery Policy Analyst, 508–281–9252.

SUPPLEMENTARY INFORMATION: NMFS implemented an emergency interim rule on December 12, 1994 (59 FR 63926), to implement immediate protective measures to reduce fishing effort on groundfish stocks, primarily cod, haddock, and yellowtail flounder, while a more comprehensive plan amendment (Amendment 7) designed to rebuild these stocks is developed.

On the recommendation of the New England Fishery Management Council (Council), this emergency action was extended, effective March 13, 1995, through June 10, 1995 (60 FR 13078, March 10, 1995). Because the development and implementation of proposed Amendment 7 is not expected until 1996, the measures contained in the emergency action, with some modifications, were implemented on a permanent basis in Framework Adjustment 9 to the FMP (60 FR 19364, April 18, 1995). The framework action, effective April 13, 1995, superseded the emergency action. Additional measures in Framework 9, which required approval by the Office of Management and Budget under the Paperwork Reduction Act, were made effective on April 28, 1995 (60 FR 21994, May 4, 1995).

Under Framework Adjustment 9, any fishery utilizing mesh smaller than the regulated mesh size is disallowed, except for fisheries that have been determined to have a catch of less than 5 percent, by weight, of regulated species. With the implementation of Framework Adjustment 9, the Regional Director determined that several species met the 5 percent requirement and are, therefore, currently allowed under § 651.20 (a)(3), (a)(4), (c)(3), and (d)(3).

Section 651.20 (a)(7), (c)(5), and (d)(4) authorizes the Regional Director to add or delete species exemptions in the respective regulated mesh areas based on the determination that the fishery in which the species are caught meets the 5 percent criteria--after consideration of the gear used, area where the fishery occurs, and other relevant factors. Recently, several small mesh exemption proposals were submitted to the Regional Director for consideration. Of these requests, the Regional Director has a reasonable basis to determine that a seasonal small mesh fishery of specified species in two of the small mesh exemption areas proposed in the GOM/GB regulated mesh area, and an allowance for the take of one additional species, skate, in New York and Connecticut state waters in the State Waters Winter Flounder Exemption Program, will not exceed the 5 percent bycatch allowance of regulated species.

When fishing in the two exempted subareas within the GOM/GB regulated mesh area with small mesh during the respective time frames specified, vessels may fish for the following exempted species: Butterfish, dogfish, herring, mackerel, ocean pout, scup, squid, silver hake (whiting), and red hake. Vessels fishing for the exempted species identified above may also possess and retain the following species as incidental take, with the restrictions noted: Longhorn sculpin, monkfish, and monkfish parts up to 10 percent by weight of all other species on board; and American lobster up to 10 percent by weight of all other species on board or 200 lobsters, whichever is less.

The fishing season is from July 15 through November 15 when fishing under the exemption in Small Mesh Area 1; and from January 1 though June 30 when fishing under the exemption in Small Mesh Area 2. These dates were selected based on the proposal request and were justified by an analysis of sea sampling data, commercial landings, and research vessel survey data that indicated the 5 percent criteria was met concerning the level of bycatch.

This rule also allows the possession and retention of skate as incidental take when fishing in New York and Connecticut state waters under the State Waters Winter Flounder Exemption Program.

Further, this rule makes a correction by adding squid to the exempted species list in the Mid-Atlantic region. Squid had been determined to meet the 5 percent criteria and was included as an exempted species with the implementation of the emergency interim rule (59 FR 63926, December 12, 1994), but had been inadvertently omitted in a subsequent rulemaking. This rule corrects this omission by adding squid to this list under § 651.20(d)(3).

Finally, this rule corrects the provisions exempting, under certain conditions, purse seine and mid-water trawl gear from the minimum mesh size requirements as specified under § 651.20 (e) and (f), to allow this exemption in all of the regulated mesh areas, but to require letters of authorization only in the GOM/GB and Stellwagen Bank/Jeffreys Ledge (SB/JL) regulated mesh area.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds there is good cause to waive prior notice and opportunity for comment under 5 U.S.C.

553(b)(B). Provisions under Framework Adjustment 9 give the Regional Director authority to add or delete small mesh species based on the percentage of regulated species caught. Public meetings held by the Council to discuss the management measures of Framework 9 provided full prior notice and opportunity for public comment to be made and considered, making additional opportunity for public comment unnecessary.

Because implementation of this rule relieves a restriction, there is no need to delay for 30 days the effectiveness of this regulation, 5 U.S.C. 553(d)(1).

This final rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 651

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 15, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 651 is amended as follows:

PART 651—NORTHEAST MULTISPECIES FISHERY

1. The authority citation for part 651 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 651.9, paragraphs (e)(14) and (e)(15) are revised to read as follows:

§ 651.9 Prohibitions.

* * * * *

(e) * * *

(14) Fish with, use, or have available for immediate use within the area described in § 651.20(a)(1) nets of mesh whose size is smaller than the minimum mesh size specified in § 651.20(a)(2), except as provided in § 651.20 (a)(3) through (a)(6), (a)(8), (e), (f), and (j), or unless the vessel qualifies for the exception specified in paragraph (e)(1)(ii) of this section.

(15) Fail to comply with the requirements as specified in § 651.20(a)(8).

* * * * *

3. In § 651.20, paragraphs (a)(2), (a)(6)(i), (d)(3)(i), (e), (f), and (j)(8) are revised, and paragraph (a)(8) is added to read as follows:

§ 651.20 Regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(a) * * *

(2) *Mesh-size restrictions.* Except as provided in paragraphs (a)(3) through (6), (a)(8), (e), (f), and (j) of this section, the minimum mesh size for any trawl net, sink gillnet, Scottish seine, or midwater trawl, on a vessel, or used by a vessel fishing in the GOM/GB regulated mesh area, shall be 6 inches (15.24 cm) diamond or square mesh throughout the entire net. This restriction does not apply to nets or pieces of nets smaller than 3 ft (0.9 m) x 3 ft (0.9 m), (9 sq. ft (0.84 m^2)), or to vessels that have not been issued a Federal multispecies permit and that are fishing exclusively in state waters.

* * * * *

(6) *Transiting.* (i) Vessels fishing under the Small Mesh Exemption program and the small mesh subareas, Small Mesh Area 1/Small Mesh Area 2, specified in paragraphs (a)(3) and (a)(8) of this section may transit through the SB/JL juvenile protection area defined in paragraph (a)(5) of this section with nets on board that do not conform to the requirements specified in paragraph (a)(2) or (a)(5) of this section, provided that the nets are stowed in accordance with the provisions of paragraph (c)(4) of this section;

* * * * *

(8) *Small Mesh Area 1/Small Mesh Area 2.* Fisheries using nets of mesh smaller than the minimum size specified in paragraph (a)(2) of this section in subareas described as Small Mesh Area 1 and Small Mesh Area 2 of the Small Mesh Exemption Area as specified under paragraph (a)(3) of this section, and defined in this paragraph (a)(8), have been found to meet the exemption qualification requirements specified in paragraph (a)(7) of this section. Therefore, vessels subject to the mesh restrictions specified in paragraph (a)(2) of this section may fish with or possess nets of mesh smaller than the minimum size specified in paragraph (a)(2) of this section in these areas, if the vessel complies with the restrictions specified in paragraphs (a)(8)(i) through (iii) of this section. These subareas are defined by straight lines connecting the following points in the order stated (see Figure 5 to part 651):

SMALL MESH AREA 1

Point	Latitude	Longitude	Approximate Loran C bearings
SM1	43°03′ N.	70°27′ W.	13600 25910
SM2	42°57′ N.	70°22′ W.	13600 25840
SM3	42°47′ N.	70°32′ W.	13720 25840
SM4	42°45′ N.	70°29′ W.	13710 25810
SM5	42°43′ N.	70°32′ W.	3-mile line 25810
SM6	42°44′ N.	70°39′ W.	13780 3-mile line
SM7	42°49′ N.	70°43′ W.	13780 25910
SM8	42°50′ N.	70°41′ W.	13760 25910
SM9	42°53′ N.	70°43′ W.	13760 25935
SM10	42°55′ N.	70°40′ W.	25935 3-mile line
SM11	42°59′ N.	70°32′ W.	3-mile line 25910
SM1	43°03′ N.	70°27′ W.	13600 25910

SMALL MESH AREA 2

Point	Latitude	Longitude	Approximate Loran C bearings
SM13	43°20.3′ N.	69°59.4′ W.	13320 44480
SM14	43°25.9′ N.	69°45.6′ W.	13200 44480
SM15	42°49.5′ N.	69°40′ W.	13387.5 44298
SM16	42°41.5′ N.	69°40′ W.	13430 44260

SMALL MESH AREA 2—Continued

Point	Latitude	Longitude	Approximate Loran C bearings
SM17	42°34.9′ N.	70°00′ W.	13587 44260
SM13	43°20.3′ N.	69°59.4′ W.	13320 44480

(i) The fishing season is from July 15 through November 15 when fishing under the exemption in

(ii) The fishing season is from January 1 through June 30 when fishing under the exemption in

(iii) *Possession limit exemptions*—(A) *Exempted species.* Vessels may not fish for, possess on board, or land any species of fish other than: Butterfish, dogfish, herring, mackerel, ocean pout, scup, squid, silver hake (whiting) and red hake, except as provided under paragraph (a)(8)(iii)(B) of this section.

(B) *Allowable bycatch.* Vessels fishing for the exempted species identified in paragraph (a)(8)(iii)(A) of this section may also possess and retain the following species, with the restrictions noted, as allowable bycatch species: Longhorn sculpin (*Myoxocephalus octodecimspinosus*); monkfish and monkfish parts up to 10 percent by weight of all other species on board; and American lobster up to 10 percent by weight of all other species on board or two hundred lobsters, whichever is less.

* * * * *

(d) * * *

(3) *Exemptions*—(i) *Species exempt.* Butterfish, dogfish, herring, mackerel, ocean pout, scup, shrimp, squid, summer flounder, silver hake (whiting), weakfish, and scallops fished for in, or harvested from, the Mid-Atlantic regulated mesh area have been found to meet the exemption qualification requirements specified in paragraph (d)(4) of this section. Therefore, vessels subject to the mesh restrictions specified in paragraph (d)(2) of this section may fish for, harvest, possess or land any of the above mentioned species with nets of mesh smaller than the minimum size specified in paragraph (d)(2) of this section in the Mid-Atlantic regulated mesh area, provided such vessels comply with the requirements specified in paragraph (d)(3)(ii) of this section.

* * * * *

(e) *Midwater trawl gear exemption.* Fishing may take place throughout the fishing year with midwater trawl gear of mesh size less than the regulated size, provided that:

(1) Midwater trawl gear is used exclusively;

(2) When fishing under this exemption in the GOM/GB and SB/JL areas, vessels must have on board an authorizing letter issued by the Regional Director;

(3) The vessel only fishes for, possesses, or lands Atlantic herring, blueback herring, mackerel, or squid in areas south of 42°20′ N. lat., and Atlantic herring, blueback herring, or mackerel in areas north of 42°20′ N. lat;

(4) The vessel does not fish for, possess, or land multispecies finfish.

(f) *Purse seine gear exemption.* Fishing may take place throughout the fishing year with purse seine gear of mesh size less than the regulated size, provided that:

(1) Purse seine gear is used exclusively;

(2) When fishing under this exemption in the GOM/GB and SB/JL areas, vessels must have on board an authorizing letter issued by the Regional Director;

(3) The vessel only fishes for, possesses, or lands Atlantic herring, blueback herring, mackerel, or menhaden;

(4) The vessel does not fish for, possess, or land multispecies finfish.

* * * * *

(j) * * *

(8) The vessel does not fish for, possess, or land any species of fish other than winter flounder and the exempted small mesh species specified under paragraphs (a)(3)(i), (a)(8)(iii), (c)(3), and (d)(3) of this section when fishing in the areas specified under paragraphs (a)(3), (a)(8), (c)(1), and (d)(1) of this section, respectively. Vessels fishing under this exemption in New York and Connecticut state waters may also possess and retain skate as incidental take in this fishery; and

* * * * *

4. Figure 5 to part 651 is added to part 651 to read as follows:

BILLING CODE 3510–22–W

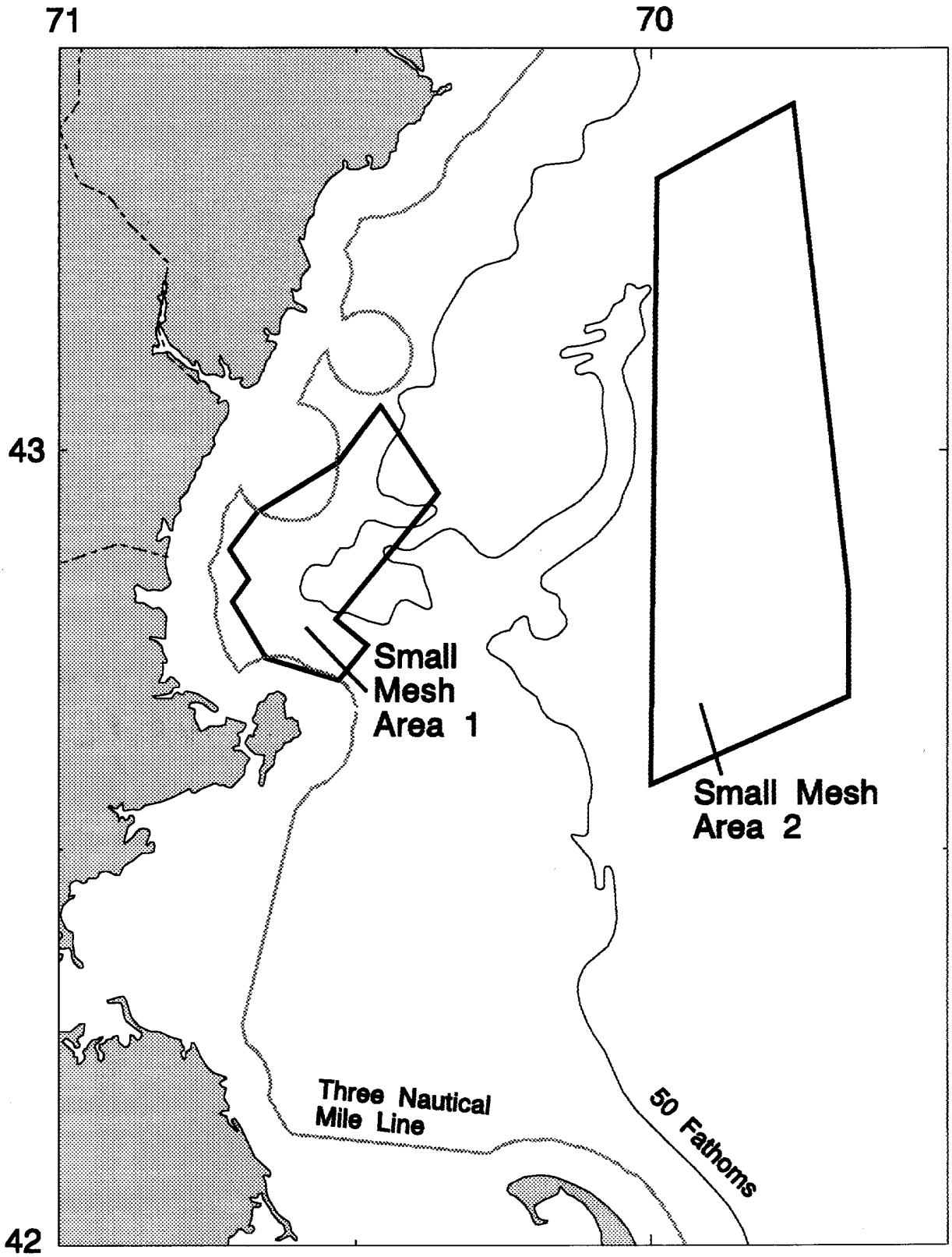

FIGURE 5 to part 651

[FR Doc. 95–12320 Filed 5–15–95; 4:42 pm]
BILLING CODE 3510–22–C

50 CFR Part 675

[Docket No. 95020640–5040–01; I.D. 051595D]

Groundfish of the Bering Sea and Aleutian Islands Area; Greenland Turbot in the Aleutian Islands Subarea

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA, Commerce.

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for Greenland turbot in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the Greenland turbot total allowable catch (TAC) in that subarea.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), May 19, 1995, until 12 midnight, A.l.t., December 31, 1995.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 675.

In accordance with § 675.20(a)(7)(ii), the Greenland turbot TAC for the AI was established by the 1995 final specifications (60 FR 8479, February 14, 1995) as 1,981 metric tons (mt).

In accordance with § 675.20(a)(8), the Director of the Alaska Region, NMFS (Regional Director), has established a directed fishing allowance of 681 mt, with consideration that 1,300 mt will be taken as incidental catch in directed fishing for other species in the AI. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Greenland turbot in the AI.

Directed fishing standards for applicable gear types may be found in the regulations at § 675.20(h).

Classification

This action is taken under § 675.20 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 15, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–12388 Filed 5–18–95; 8:45 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 60, No. 97
Friday, May 19, 1995

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–ANE–08]

Airworthiness Directives; AlliedSignal Engines (Formerly Textron Lycoming) Models LTS101–650B1, –750B1, –650C, and –750C Turboshaft Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to AlliedSignal Engines (formerly Textron Lycoming) Models LTS101–650B1, –750B1, –650C, and –750C turboshaft engines. This proposal would require installation of an improved power turbine (PT) rotor and electronic PT rotor overspeed controller as a terminating action to the currently required inspections of AD 88–14–01. This proposal is prompted by reports of additional bearing failures since publication of AD 88–14–01, including one additional uncontained PT disk failure. The actions specified by the proposed AD are intended to prevent PT overspeed and uncontained engine failure.

DATES: Comments must be received by July 18, 1995.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–08, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from AlliedSignal Inc., 550 Main Street, Stratford, CT 06497. This information may be examined at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7148, fax (617) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 95–ANE–08.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 95–ANE–08, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On May 26, 1988, the Federal Aviation Administration (FAA) issued airworthiness directive (AD) 88–14–01, Amendment 39–5952 (53 FR 25317, July 6, 1988), to require initial and repetitive inspections of the engine lubrication and bearing systems on AlliedSignal Engines (formerly Textron Lycoming) LTS101 series turboshaft engines. That action was prompted by reports of four uncontained power turbine (PT) disk failures. Subsequent investigation revealed that the PT disk failures were caused by bearing failures resulting in PT shaft disengagement from the gear train drive, unloading the PT and causing rotor overspeed. Two other PT disk failures involved No. 4 bearing failure, followed by power pinion gear teeth failure, thereby unloading the PT and causing PT rotor overspeed. This condition, if not corrected, could result in PT overspeed and uncontained engine failure.

Since the issuance of that AD, the FAA has received reports of additional bearing failures with resultant loss of PT rotor location, including one additional uncontained PT disk failure. In order to minimize the possibility of an uncontained engine failure, the manufacturer has developed an improved PT rotor with retention capability and an improved electronic PT rotor overspeed controller. These improvements are only available for AlliedSignal Engines Models LTS101–650B1, –750B1, –650C, and –750C turboshaft engines, installed on Bell Helicopter Textron 222 series and Messerschmitt-Bolkow-Blohm (MBB) BK117 series helicopters. Installation of these improved components constitutes terminating action to the inspections required by AD 88–14–01 only to these certain engine models installed on these certain helicopters.

On October 28, 1994, AlliedSignal Inc. purchased the turbine engine product line of Textron Lycoming.

The FAA has reviewed and approved the technical contents of the following Textron Lycoming Service Bulletins (SB), that describe installing an improved PT rotor with retention capability and an electronic PT rotor overspeed controller:

Engine model	PT rotor	Electronic overspeed
LTS101–650B	LTS101B–72–50–0122, Revision 4, dated June 17, 1991.	LTS101B–73–10–0127, Revision 2, dated August 14, 1992.
LTS101–750B1	LTS101B–72–50–0116, Revision 6, dated August 14, 1992.	LTS101B–73–10–0127, Revision 2 dated August 14, 1992.
LTS101–650C and –750 Series.	LTS101C–72–50–0119, Revision 2, dated June 17, 1991.	LTS101C–73–10–0129, Revision 3, dated August 14, 1992.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require installation of an improved PT rotor with retention capability and an electronic PT rotor overspeed controller at the next shop visit when the PT rotor is removed after the effective date of this AD, but prior to December 31, 1997, as a terminating action to the currently required inspections of AD 88–14–01. The FAA has determined, based on the availability of parts, that by that date affected engines would have at least one scheduled shop visit to install the improved components. In addition, by that date operators would have at least one scheduled opportunity to install components of the electronic overspeed controller in affected aircraft. The actions would be required to be accomplished in accordance with the service bulletins described previously.

There are approximately 950 engines of the affected design in the worldwide fleet. The FAA estimates that 95 engines installed on aircraft of U.S. registry would be affected by the requirement to install the PT rotor with improved retention, that it would take approximately 10 work hours per engine to accomplish the proposed action, and that the average labor rate is $60 per work hour. Required parts cost for the PT rotor installation would be $44,400 per engine. Based on these figures, the cost impact of installing the PT rotor with improved retention is estimated to be $4,275,000.

In addition, the FAA estimates that 576 engines installed on aircraft of U.S. registry would be affected by the requirement to install the electronic PT rotor overspeed controller, that it would take approximately 3 work hours per engine to accomplish the proposed action, and that the average labor rate is $60 per work hour. Required parts cost for the electronic PT rotor overspeed controller installation would be $5,825. Based on these figures, the cost impact of installing the electronic PT rotor overspeed controller would be $3,458,880. Therefore, the total cost impact of all the actions of the proposed AD on U.S. operators is estimated to be $7,733,880.

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''major rule'' under Executive Order 12291; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

AlliedSignal Engines: Docket No. 95–ANE–08.

Applicability: AlliedSignal Engines (formerly Textron Lycoming) Model LTS101–650B1, –750B1, –650C, and –750C turboshaft engines installed on Bell Helicopter Textron 222 series and Messerschmitt-Bolkow-Blohm (MBB) BK117 series helicopters.

Note: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (d) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent power turbine (PT) overspeed and uncontained engine failure, accomplish the following:

(a) Install the improved PT rotor with retention capability at the next shop visit when the PT rotor is removed after the effective date of this AD, but prior to December 31, 1997, in accordance with the following Textron Lycoming Service Bulletins (SB):

Engine model	SB No.	Rev.	Date
LTS101–650B1	LTS101B–72–50–0122	4	June 17, 1991.
LTS101–750B1	LTS101B–72–50–0116	6	August 14, 1992.
LTS101–650C and –750C Series	LTS101C–72–50–0119	2	June 17, 1991.

(b) Install the improved electronic PT rotor overspeed controller concurrently with the PT rotor installation required by paragraph (a) of this AD in accordance with the following Textron Lycoming SB:

Engine model	SB No.	Rev.	Date
LTS101–650B1	LTS101–73–10–0127	2	August 14, 1992.
LTS101–750B1	LTS101–73–10–0127	2	August 14, 1992.
LTS101–650C and –750C Series	LTS101–73–10–0129	3	August 14, 1992.

(c) Installation of the improved PT rotor with retention capability and the improved electronic PT rotor overspeed controller in accordance with paragraphs (a) and (b) of this AD constitutes terminating action to the inspection requirements of AD 88–14–01.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on May 15, 1995.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 95–12330 Filed 5–18–95; 8:45 am]

BILLING CODE 4910–13–P

Office of the Secretary

14 CFR Part 221

[Docket No. 50355; Notice No. 95–5]

RIN 2105–AC23

Electronic Filing of International Airline Passenger Rules Tariffs

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Transportation proposes to amend its regulations governing the filing of airline tariffs. Under the proposed rule, carriers would be authorized to electronically file the rules governing passenger fares and their conditions of service, subject to certain format requirements necessary to enable the Department to work with differing filing systems. The Department's regulations have permitted the electronic filing of passenger fares since 1989. The Department is proposing this action at the request of tariff publishing agents in order to extend the efficiencies of electronic data transmission and processing to the filing of rules tariffs. Filers could, however, continue to file fare rules on paper if they preferred.

DATES: Comments should be received no later than June 19, 1995.

ADDRESSES: Five (5) copies of any comments should be sent to the Documentary Services Division, C–55, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590–0002, and should refer to this docket. To receive acknowledgment of comments, include a stamped, self-addressed postcard which the Docket Clerk will return stamped with time and date.

FOR FURTHER INFORMATION CONTACT: Mr. John H. Kiser, Pricing and Multilateral Affairs Division, Department of Transportation, at the address above. Telephone: (202) 366–2435.

SUPPLEMENTARY INFORMATION:

Background

On January 19, 1989, the Department published a final rule that allows international passenger fares tariffs (fares and associated data) to be filed electronically, as an alternative to the filing of paper tariffs.[1] 54 FR 2087, January 19, 1989. The rule, contained in subpart W of part 221, established a number of criteria that have to be met for carriers or their agents to make such filings, including a signed agreement or agreements providing for the maintenance and security of the on-line tariff database. Approval by the Department of an application containing various hardware and software service commitments, as well as the filer's proposed format, is also required.

The 1989 rule was issued in response to an emergency petition for rulemaking by the Airline Tariff Publishing Company (ATPCO), requesting an expedited amendment to part 221 to permit the electronic filing of international passenger fares on an experimental basis. The Notice of Proposed Rulemaking was issued on July 8, 1988, at 53 FR 25615. Although ATPCO and other commenters then urged that the rule be broadened to include all international tariffs, the Department determined to address the filing of passenger fare rules and cargo tariffs in subsequent proceedings, citing the need for expedition as well as the need for a period of operational experience to determine whether the filing criteria and procedures set forth in Subpart W adequately meet regulatory needs.

ATPCO, a publishing agent owned by and representing a number of U.S. and foreign airlines, was initially the only entity that applied for authority to make electronic fare filings under the rule. It began test filings in July 1989, and in December 1989 it received final approval from the Department to commence official electronic filings. On November 28, 1990, ATPCO filed a petition for rulemaking in Docket 47288, requesting the amendment of part 221 to permit the alternative electronic filing of all international tariffs. The petition included suggested regulatory changes to accommodate the filing of passenger and cargo rules, and cargo rates.

In February 1992, the Department permitted ATPCO to begin filing electronic passenger rules on an unofficial test basis. The official rules, however, continue to be filed on paper.

By a Notice of Proposed Rulemaking issued October 15, 1992, in Docket 48385, 57 FR 47303, the Department proposed extensive revisions to part 221 to permit the electronic filing of all international tariffs. Following a comment period and a public meeting, the proposal was withdrawn for further study of various technical issues, and the proceeding was terminated. 58 FR 12350, March 4, 1993.

Requests for Further Action

Since the termination of the 1992 rulemaking, ATPCO has informally urged the Department to take whatever actions may be necessary to develop the capability for the acceptance and processing of all tariffs electronically.

In addition, another entity has demonstrated interest in filing international tariffs electronically with the Department. The Societé Internationale de Telecommunications Aéronautiques (SITA), a tariff publishing service which developed an electronic tariff filing system for use in Europe and elsewhere, has demonstrated its ProFile system to the Department's staff and is making modifications to accommodate U.S. requirements and procedures. On June

[1] Associated data include arbitraries, footnotes, routing numbers and fare class explanations. *See* 14 CFR 221.4 and 221.283.

21, 1994, SITA submitted an application under § 221.260 for the necessary Department approvals to permit it to begin electronic filing of international passenger tariffs, encompassing fares and rules to the extent authorized by the Department. The application included a signed agreement for the maintenance and security of the on-line tariff database, as well as certain other information and undertakings required by section 221. SITA is working with the staff to resolve any remaining areas of nonconformity. We expect SITA to begin filing passenger fares and rules on an unofficial test basis in the near future, and we will then act on its application to file official tariffs based on experience with the test filings.

Proposal

The Department proposes to amend § 221.251 of subpart W of its tariff filing regulations, 14 CFR part 221, to authorize the electronic filing by all airlines and tariff publishing agents of any or all rules relating to the provision of passenger services. Like the filing of passenger fares already authorized, this alternative to the traditional paper format and procedures set forth in part 221 is permissive in nature, and would be governed by the provisions of subpart W. If amended as proposed, subpart W would authorize the electronic filing of all tariff material relating to passenger services that airlines are required to file with the Department, although the existing requirements for final approval of a particular tariff filing system and its associated formats, set forth in subpart W, must be complied with before the Department will accept authorized electronic filings as official tariffs.

The Department is also proposing to amend § 221.283 of subpart W to add certain minimum tariff format requirements to provide a basic framework for the processing of tariff rules, which differ from fare filings in many technical respects. The existing format requirements set forth in § 221.283(b)(8), developed largely for the processing of fares and associated data, would not be changed but would be described as specifically applicable to the filing of fares. The new format requirements for the filing of passenger fare rules would be set forth in a new § 221.283(b)(9). Consequential amendments would be made to provisions regarding maintenance of historical data (paragraph (c) of § 221.283, and § 221.260(b)(7)).

Basis for the Proposal

Since the adoption of the present provisions of subpart W in 1989, and the beginning of test processing of unofficial electronic passenger fare rules in 1992, both ATPCO and SITA have developed and/or refined their software to provide comprehensive formats for the electronic filing of specific passenger fare rules as well as fares.[2] While neither system has been formally approved for official filing of electronic rules tariffs, we believe that sufficient progress has been made for us to remove the legal impediment in § 221.251(a) to considering such approvals. Similarly, there may be other entities interested in testing competing filing systems, for whom the authority to offer a fuller range of filing services could be a marketing benefit.

The industry currently files about 42,000 official tariff rule pages per year, in nearly 9,000 submissions. Nearly all of these rule changes are filed for effect on less than bilateral/statutory notice with an accompanying Special Tariff Permission Application (STPA). The carriers are thus filing each rule provision on paper twice, once with the STPA and once as the formal tariff submission.

Under the proposed amendments, a single electronic filing could replace two paper filings for most rules, significantly reducing the industry's submission, printing, and dissemination costs. Similarly, the Department's review, filing, and archival costs will be substantially reduced.

The Department's staff has utilized its experience with existing paper and electronic filing systems to identify those specific tariff rule provisions that we currently believe are necessary for providing sufficient information and for the effective processing and use of electronic rules formats developed by any filing agent. The provisions would not necessarily have to be presented in the same order as listed in proposed § 221.283(b)(9), but each rule would have to include at least all of the listed provisions.[3] Most individual format issues have been and will continue to be resolved through consultations between the Department and individual filing agents, as provided in § 221.260(b)(1) of the current regulations. However, the Department recognizes the need to propose further amendments to part 221 to deal comprehensively with general format and procedural issues, as well as with the question of the appropriate filing fees to be charged in the future, as soon as adequate data and experience are available. In the interim, we believe that the limited action being proposed here is warranted because it will facilitate increased speed and efficiency in the tariff filing process with direct cost savings to the carriers, the traveling public, and the taxpayer; it will help provide carriers, for the first time, with a choice of electronic filing agents and services; and it will provide valuable experience that will facilitate the drafting of a more comprehensive rule.

Three format issues warrant additional discussion here. First, we note that our proposed format criteria do not yet provide for the filing of so-called ''general'' fare rules and ''unpublished fare'' rules. General fare rules typically include provisions applicable to all passengers, relating to general conditions of carriage such as liability, baggage, fare construction, and refunds. Unpublished fare rules typically establish discounts for certain classes of traffic not limited to specific markets, e.g., children and infants, agents, tour conductors, emigrants and cargo attendants. Electronic formats for filing general and unpublished fare rules are still under development.

Second, we propose not to accept ''Intentionally Left Blank'' as a category entry in an electronic fare rule, nor would we accept the complete omission of a rule category to serve as a default to a general rule.[4] These practices, which have been a source of confusion in the paper filing environment, would become increasingly confusing in an environment where the fare rules are filed electronically but the general rules are still filed on paper. Where carriers wish to default to a general rule for a particular condition, we propose to require that electronic rules contain a specific entry for each category in the rule. The entry could be either a specific reference to the relevant general rule or specific conditions extracted from the general rule.

And third, in the test electronic rules we have received thus far, carriers have been including some extraneous material that is not properly part of a tariff and of which we take no regulatory notice, e.g., provisions concerning ticket and booking codes and annotations, wait listing procedures, and reservation record requirements. We recognize that carriers submit such material to their filing agents along with associated fare and rule changes for non-regulatory

[2] A ''specific fare rule'' is one that applies exclusively to a particular fare type, for which specific fare levels are filed in each city-pair market where the fare applies.

[3] Under this proposal, we would consider each provision of an electronic tariff rule to be a ''record'' for purposes of assessing filing fees under 14 CFR 389.20(b) and 389.25(b).

[4] Where a particular provision is intentionally left blank in a rule, no such provision applies to the fare covered by the rule. For example, where the ''group requirements'' section is left blank, it means there are no group requirements.

purposes, such as notifying computer reservations systems of the carriers' technical procedures. However, this extraneous material will not be approved by the Department, and its inclusion in official electronic rules will only cause confusion. We, therefore, propose to preclude such material in official electronic tariff filings.

The proposed amendment to § 221.251, as drafted, does not encompass the filing of cargo rates and rules tariffs. By a Notice of Proposed Rulemaking issued October 24, 1994, in Docket 49827, the Department proposed a blanket exemption for all carriers from the statutory and regulatory duty to file international property (cargo) tariffs with the Department. If the proposed rule is adopted, carriers will soon cease filing cargo rate and rules tariffs in any format. To the extent that a filing requirement might be retained, electronic format issues can be addressed at a later date.

The amendments proposed here would leave in place the procedural and technical requirements of subpart W, which each electronic filer must satisfy before official electronic rule filings may be accepted. In addition to those listed in § 221.260, for example, are provisions such as those in § 221.500 regarding the submission of machine-readable copies of records existing when electronic filing is implemented, and the cancellation of records from the paper tariff. As noted above, § 221.260 includes the requirement that the Department approve the precise format used by each electronic filer before official filings can be made. This is normally done by letter once a period of successful test filings has been accomplished and the Department is satisfied that the filing system meets regulatory needs. However, subpart W also imposes continuing performance requirements, violations of which could lead to enforcement action or even withdrawal of electronic filing privileges.

Finally, we would note that the success of electronic rules filing will depend on scrupulous adherence to the Department's regulatory requirements by both carriers and their filing agents. The Department's staff will be closely monitoring performance in this regard, and will work with parties to ensure the utility and integrity of the electronic tariff system.

The Department is providing less than the usual 60 days for comment because the proposal is merely offering an alternative method of compliance.

Regulatory Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures

The Office of Management and Budget (OMB) has determined that this proposal is not a significant regulatory action under Executive Order 12866 and, therefore, not subject to OMB review. The Department has determined that the proposal is not significant under the Department's Regulatory Policies and Procedures (44 FR 11034, Feb. 26, 1979). The proposal would, if adopted, reduce the paperwork burden for all U.S. and foreign air carriers now filing their passenger rules tariffs on paper. The Department expects the economic impact of the proposal, however, to be modest. The proposal would not result in any required additional costs to carriers or the public. It would simply provide an alternative method of meeting the statutory tariff-filing requirements. The potential estimated savings are discussed below.

Executive Order 12612

This proposal has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 (''Federalism''), and the Department has determined the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act

I certify that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The tariff filing requirements apply to scheduled service air carriers. The vast majority of the air carriers filing international (''foreign'') passenger rules tariffs are large operators with revenues in excess of several million dollars each year. Small air carriers operating aircraft with 60 seats or less and 18,000 pounds payload or less that offer on-demand air- taxi service are not required to file such tariffs.

Paperwork Reduction Act

With respect to the Paperwork Reduction Act, this proposal would replace two paper filings for most rules with a single electronic filing. Thus, while this proposal will significantly reduce the paperwork burden on industry and government, it does not eliminate information collection requirements that require the approval of the Office of Management and Budget pursuant to the Act.

If the proposed amendments to existing regulations are implemented, the Department estimates that filing of passenger tariff rule pages in paper format would be reduced by about ninety percent, with the remaining ten percent continuing to be filed in paper form. A total of about 42,000 passenger tariff rule pages and about 6,400 Passenger Special Tariff Permission Applications (STPA's) were filed in 1994. At a filing fee of $2 a rule page and $12 a passenger STPA, we estimate the carriers could save as much as $145,000 annually in filing fees paid to the Department. In addition, ATPCO charges the carriers $35.00 for each filed tariff page and up to $30.00 for each STPA. On this basis, we estimate that implementation of the proposal could save carriers an additional $1,500,000 in associated fees paid to ATPCO, producing potential total savings to the carriers in excess of $1,600,000 per year.

While not estimated, we expect that costs of governmental review, filing and archiving of paper tariff rule filings will be similarly reduced.

The reporting and recordkeeping requirement associated with this rule are being submitted to OMB for approval in accordance with 44 U.S.C. chapter 35 under OMB NO. 2105–AC23; Administration: Department of Transportation; TITLE: Electronic Filing of Passenger Service Rules Tariffs; NEED FOR INFORMATION: Authorizes the electronic filing of rules governing the provision of passenger services; PROPOSED USE OF INFORMATION: Authorization is based on the request of tariff publishing agents to extend the efficiencies of electronic data transmission and processing to the filing of rules tariffs; FREQUENCY: An initial passenger tariff rule filing is required of each respondent; changes are voluntary, whenever an air carrier elects; BURDEN ESTIMATE: 5.34 hours for an STPA or a passenger rule page; RESPONDENTS: 45; FORM(S) 48,400 pages or applications per annum; AVERAGE BURDEN HOURS PER RESPONDENT: 5530 hours.

For further information on paperwork reduction contact: The Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 Seventh Street, SW., Washington, DC. 20590, (202) 366–4735 or DOT Desk Officer, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the

heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 14 CFR Part 221

Agents, Air carriers, Foreign air carriers, Tariffs.

This rule is being issued under authority delegated in 49 CFR 1.56(j)(2)(ii). For the reasons set forth in the preamble, 14 CFR Part 221 would be amended to read as follows:

PARTS 221—TARIFFS

Subpart W—Electronically Filed Tariffs

1. The authority citation for part 221 would continue to read as follows:

Authority: 49 USC 40101, 40109, 40113, 46101, 46102, Chapter 411, Chapter 413, Chapter 415, and Subchapter I of Chapter 417, unless otherwise noted.

2. Section 221.251 Applicability of the subpart is amended by revising Paragraph (a) to read as follows:

§ 221.251 Applicability of subpart.

(a) Any carrier, consistent with the provisions of this subpart, and this part 221 generally, may file its international passenger fares tariffs and international passenger rules tariffs electronically in machine-readable form as an alternative to the filing of printed paper tariffs as provided for elsewhere in this part 221. This subpart applies to all carriers and tariff publishing agents and may be used by either if the carrier or agent complies with the provisions of this subpart W. Any carrier or agent that files electronically under this subpart must transmit to the Department the remainder of the tariff in a form consistent with this part 221, subparts A–V on the same day that the electronic tariff would be deemed received under § 221.270(b).

* * * * *

3. Paragraph (b)(7) of § 221.260, *Requirements for filing*, is revised to read as follows:

§ 221.260 Requirements for filing.

* * * * *

(b) * * *

(7) The filer shall maintain all fares and rules with the Department and all Departmental approvals, disapprovals and other actions, as well as all Departmental notations concerning such approvals, disapprovals or other actions, in the on-line tariff database for a period of two (2) years after the fare or rule becomes inactive. After this period of time, the carrier or agent shall provide the Department, free of charge, with a copy of the inactive data on a machine-readable tape or other mutually acceptable electronic medium.

* * * * *

4. Paragraph (b)(8) of § 221.283, *The filing of tariffs and amendments to tariffs*, is amended by revising the introductory text, and by adding a new paragraph (b)(9) to read as follows:

§ 221.283 The filing of tariffs and amendments to tariffs.

* * * * *

(b)* * *

(8) Fares tariff, or proposed changes to the fares tariffs, including:

* * * * *

(9) Rules tariff, or proposed changes to the rules tariffs, including:

(i) Title: General description of fare rule type(s) and geographic area(s) under the rule;

(ii) Application: Specific description of fare class(es), geographic area(s), type of transportation (one way, round- trip, etc.);

(iii) Period of Validity: Specific description of permissible travel dates and any restrictions on when travel is not permitted;

(iv) Reservations/ticketing: Specific description of reservation and ticketing provisions, including any advance reservation/ ticketing requirements, provisions for payment (including prepaid tickets), and charges for any changes;

(v) Capacity Control: Specific description of any limitation on the number of passengers, available seats, or tickets;

(vi) Combinations: Specific description of permitted/restricted fare combinations;

(vii) Length of Stay: Specific description of minimum/maximum number of days before the passenger may/must begin return travel;

(viii) Stopovers: Specific description of permissible conditions, restrictions, or charges on stopovers;

(ix) Routing: Specific description of routing provisions, including transfer provisions, whether on-line or inter-line;

(x) Discounts: Specific description of any limitations, special conditions, and discounts on status fares, e.g. children or infants, senior citizens, tour conductors, or travel agents, and any other discounts;

(xi) Cancellation and Refunds: Specific description of any special conditions, charges, or credits due for cancellation or changes to reservations, or for request for refund of purchased tickets;

(xii) Group Requirements: Specific description of group size, travel conditions, group eligibility, and documentation;

(xiii) Tour Requirements: Specific description of tour requirements, including minimum price, and any stay or accommodation provisions;

(xiv) Sales Restrictions: Specific description of any restrictions on the sale of tickets;

(xv) Rerouting: Specific description of rerouting provisions, whether on-line or inter-line, including any applicable charges; and

(xvi) Miscellaneous provisions: Any other applicable conditions.

5. Paragraph (c) of § 221.283 is amended by redesignating existing paragraphs (c) (8) through (15) as paragraphs (c) (9) through (16), respectively, and by adding a new paragraph (c) (8) to read as follows:

§ 221.283 The filing of tariffs and amendments to tariffs.

* * * * *

(c) * * *

(8) Rule text;

* * * * *

Issued in Washington DC, on May 15, 1995.

Patrick V. Murphy

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 95–12372 Filed 5–18–95; 8:45 am]

BILLING CODE 4910–62–P

INTERNATIONAL TRADE COMMISSION

19 CFR Part 201

Rules of General Application

AGENCY: U.S. International Trade Commission.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Commission is proposing to amend Part 201 of the Commission's Rules of Practice and Procedure (the ''Commission's Rules'') to clarify those sections of the Commission's Rules dealing with the Freedom of Information Act (FOIA) and Privacy Act Officers' initial denial authority. This proposed amendment will also reflect the Inspector General's authority, under both the Inspector General Act of 1978, as amended, (the ''IG Act'') and under Section 552a(b) of the Privacy Act to disclose Privacy Act information to contractor personnel who function as federal employees.

DATES: Comments on the proposed rules will be considered if received on or before June 19, 1995.

ADDRESSES: A signed original and 14 copies of each set of comments, along

with a cover letter addressed to Donna R. Koehnke, Secretary, should be sent to the U.S. International Trade Commission, Room 112, 500 E Street SW, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Hilaire R. Henthorne, Esq., Counsel to the Inspector General, Office of Inspector General, U.S. International Trade Commission, telephone 202–205–2210. Hearing impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: Section 335 of the Tariff Act of 1930 (19 U.S.C. 1335) authorizes the Commission to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties. This amendment will bring the Commission's Rules into conformity with Section 6 of the IG Act (5 U.S.C. app. 3) and with Section 552a(b) of the Privacy Act of 1974, as amended (5 U.S.C. 552a(b)).

Section 6 of the IG Act authorizes Inspectors General to ''enter into contracts and other arrangements for audits, studies, analyses, and other services with * * * private persons * * *.'' *See* 5 U.S.C. app. 3. When contractor personnel are employed to perform the authorized functions of an Office of Inspector General, and are, in the judgment of the Inspector General, performing such functions, they serve in the capacity of government employees. *See generally Coakley* v. *United States Dep't of Transportation*, No. 93–1420, slip op. at 3 (D.D.C. Apr. 7, 1994); and *Hulett* v. *Dep't of the Navy*, No. TH 85–310–C, slip op. at 3–4 (S.D. Ind. Oct. 26, 1987); *aff'd* 866 F.2d 432 (7th Cir. 1988) (table cite), *cert. denied*, 490 U.S. 1068 (1989). Section 552a(b) of the Privacy Act stipulates that Privacy Act disclosures are permissible when made to ''employees of the agency * * * who have a need for the record in the performance of their duties * * *.'' *See* 5 U.S.C. § 552a(b).

Section 552a(c) of the Privacy Act specifically exempts disclosure to government employees from the Privacy Act's recordkeeping requirement. Thus, this amendment to the Commission's Rules clarifies the three categories of disclosure that are exempt, under the Privacy Act, from the recordkeeping provisions: (1) Disclosures made to officers and employees of the Commission who have a need for the information in the performance of their duties; (2) disclosures made to contractor personnel, pursuant to the IG Act or any other law, when such personnel are performing the functions of government employees; and (3) other contractor personnel who, in the judgment of the Director of Personnel, are acting as Commission employees.

Commission rules ordinarily are promulgated in accordance with the rulemaking provisions of section 553 of the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) (APA). Under the APA, rulemaking entails the following steps: (1) publication of a notice of proposed rulemaking; (2) solicitation of public comment on the proposed rules; (3) Commission review of such comments prior to developing final rules; and (4) publication of the final rules thirty days prior to their effective date. *See* 5 U.S.C. 553. This notice of proposed rulemaking is the first step in that procedure.

The Commission has determined that this proposed amendment does not meet the criteria described in section 3f of Executive Order (EO) 12866 (58 FR 51735, Oct. 4, 1993) and does not constitute a ''significant regulatory action'' for purposes of the EO. In accordance with the Regulatory Flexibility Act (5 U.S.C. § 601 note), the Commission hereby certifies pursuant to 5 U.S.C. § 605(b) that the proposed amendment set forth in this notice is not likely to have a significant economic impact on a substantial number of small business entities. This conclusion is premised on the fact that the proposed amendment merely conforms to existing IG Act and Privacy Act provisions. Thus, it is not expected to have any significant economic impact.

Proposed Changes to 19 CFR Part 201

1. Section 201.2(b)–(j) is revised to include a definition of the term ''Inspector General'' and redesignate existing definitions as follows:

§ 201.2 Definitions.

(b) *Inspector General* means the Inspector General of the Commission;

(c) *Tariff Act* means the Tariff Act of 1930, 19 U.S.C. 1202–1677j;

(d) *Trade Expansion Act* means the Trade Expansion Act of 1962, 19 U.S.C. 1801–1991;

(e) *Trade Act* means the Trade Act of 1974, 19 U.S.C. 2101–2487;

(f) *Trade Agreements Act* means the Trade Agreements Act of 1979, Public Law 96–39, 93 Stat. 144;

(g) *Rule* means a section of the Commission Rules of Practice and Procedure (19 CFR chapter II);

(h) *Secretary* means the Secretary of the Commission;

(i) Except for adjudicative investigations under subchapter C of this chapter, *party* means any person who has filed a complaint or petition on the basis of which an investigation has been instituted, or any person whose entry of appearance has been accepted pursuant to § 201.11 (a) or (c). Mere participation in an investigation without an accepted entry appearance does not confer party status.

(j) *Person* means an individual, partnership, corporation, association, or public or private organization.

2. Paragraph (a) of § 201.18 is revised to read as follows:

§ 201.18 Denial of requests, appeals from denial.

(a) Written requests for inspection or copying of records shall be denied only by the Secretary or Acting Secretary, or, for records maintained by the Office of Inspector General, the Inspector General. Denials of written requests shall be in writing, shall specify the reason therefor, and shall advise the person requesting of the right to appeal to the Commission. Oral requests may be dealt with orally, but if the requester is dissatisfied he shall be asked to put the request in writing.

3. Paragraph (d) of § 201.24 is revised to read as follows:

§ 201.24 Procedures for requests pertaining to individual records in a records system.

(d) The Director of Personnel, or, the Inspector General, if such records are maintained by the Inspector General, shall ascertain whether the systems of records maintained by the Commission contain records pertaining to the individual, and whether access will be granted. Thereupon the Director of Personnel shall:

(1) Notify the individual whether or not the requested record is contained in any system of records maintained by the Commission; and

(2) Notify the individual of the procedures as prescribed in §§ 201.25 and 201.26 of these regulations by which the individual may gain access to those records maintained by the Commission which pertain to him or her. Access to the records will be provided within 30 days (excluding Saturdays, Sundays, and legal public holidays).

4. Paragraph (b) of § 201.28 is revised to read as follows:

§ 201.28 Request for correction or amendment of record.

(b) Not later than 10 days (Saturdays, Sundays and Federal legal public holidays excluded) after the date of receipt of a Privacy Act request for amendment of records, the Director of Personnel shall acknowledge such receipt in writing. Such a request for

amendment will be granted or denied by the Director of Personnel or, for records maintained by the Inspector General, the Inspector General. If the request is granted, the Director of Personnel, or, the Inspector General, for records maintained by the Inspector General, shall promptly make any correction of any portion of the record which the individual believes is not accurate, relevant, timely, or complete. If, however, the request is denied, the Director of Personnel shall inform the individual of the refusal to amend the record in accordance with the individual's request and give the reason(s) for the refusal. In cases where the Director of Personnel or the Inspector General has refused to amend in accordance with an individual's request, he or she also shall advise the individual of the procedures under § 201.29 of these regulations for the individual to request a review of that refusal by the full Commission or by an officer designated by the Commission.

5. Paragraphs (a) through (d) of § 201.29 are revised to read as follows:

§ 201.29 Commission review of request for correction or amendment to record.

(a) The individual who disagrees with the refusal of the Director of Personnel or the Inspector General to amend the record may request a review of the refusal by the Commission. All requests for review of refusals to amend records should be addressed to the Chairman, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436, and shall clearly indicate both on the envelope and in the letter that it is a Privacy Act review request.

(b) Not later than 30 days (Saturdays, Sundays, and Federal legal public holidays excluded) from the date on which the Commission receives a request for review of the Director of Personnel's or the Inspector General's refusal to amend the record, the Commission shall complete such a review and make a final determination thereof unless, for good cause shown, the Commission extends the 30-day period.

(c) After the individual's request to amend his or her records has been reviewed by the Commission, if the Commission agrees with the Director of Personnel's or the Inspector General's refusal to amend the record in accordance with the individual's request, the Commission shall: (1) Notify the individual in writing of the Commission's decision; (2) advise the individual that he or she has the right to file a concise statement of disagreement with the Commission which sets forth his or her reasons for disagreement with the refusal of the Commission to amend the records; and (3) notify the individual of his or her legal right to judicial review of the Commission's final determination.

(d) In any disclosure, containing information about which the individual has filed a statement of disagreement, the Director of Personnel, or, for records maintained by the Inspector General, the Inspector General, shall clearly note any portion of the record which is disputed and shall provide copies of the statement and, if the Commission deems it appropriate, copies of a concise statement of the reasons of the Commission for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed.

6. Paragraph (b) of § 201.30 is revised to read as follows:

§ 201.30 Commission disclosure of record to person other than the individual to whom it pertains.

(b) Except for disclosures either to officers and employees of the Commission, or, to contractor employees who, in the Inspector General's or the Director of Personnel's judgment, are acting as federal employees, who have a need for the record in the performance of their duties, and any disclosure required by 5 U.S.C. § 552, the Director of Personnel shall keep an accurate accounting of: (1) The date, nature, and purpose of each disclosure of a record to any person or to another agency under paragraph (a) of this section; and (2) the name or address of the person or agency to whom the disclosure is made.

Issued: May 15, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–12360 Filed 5–18–95; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 146

[Docket No. 94N–0452]

RIN 0905–AC48

Canned Fruit Nectars; Proposal to Revoke the Stayed Standard of Identity; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule, correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a proposed rule that appeared in the **Federal Register** of April 21, 1995 (60 FR 19866). The document proposed to revoke the standard of identity for canned fruit nectars. The document was published with an inadvertent error in the preamble section. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Nannie H. Rainey, Center for Food Safety and Applied Nutrition (HFS–158), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–5099.

In FR Doc. 95–9949, appearing on page 19866 in the **Federal Register** of Friday, April 21, 1995, the following correction is made:

1. On page 19867, in the third column, under ''**IV. Request for Comments**'', line 2, ''June 20'' is corrected to read ''July 5''.

Dated: May 10, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–12294 Filed 5–18–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 201

[Docket No. 92N–0311]

Topical Drug Products Containing Benzoyl Peroxide; Required Labeling; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to July 17, 1995, the comment period for the proposed rule to include additional labeling (warning and directions) for all topically-applied acne treatment drug products containing benzoyl peroxide, which appeared in the **Federal Register** of February 17, 1995 (60 FR 9554). FDA is taking this action in response to a request to extend the comment period.

DATES: Written comments by July 17, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD–810), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5000.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 17, 1995 (60 FR 9554), FDA issued a proposed rule to include additional labeling (warning and directions) for all topically-applied acne treatment drug products containing benzoyl peroxide. Interested persons were given until May 18, 1995, to submit written comments on the proposal.

In response to the proposal, the Nonprescription Drug Manufacturers Association (NDMA) requested a 2-month extension of the comment period. NDMA states that the request was on behalf of member companies who manufacture and distribute over-the-counter (OTC) acne drug products containing benzoyl peroxide. NDMA indicated that it intended to comment on FDA's proposal to require additional labeling on acne drug products at the request of its Benzoyl Peroxide Study Group. NDMA stated that it needed more time to document fully questions about certain facts included in the proposal. NDMA added that the precedent-breaking nature of the agency's proposal demanded careful scrutiny and thoughtful consideration and that coordination of the Benzoyl Peroxide Study Group's efforts in these regards was time-consuming.

FDA has carefully considered the request and acknowledges the uniqueness of the proposal. The agency believes that additional time for comment is in the public interest and will be of assistance in establishing labeling that will help consumers safely use drug products containing benzoyl peroxide for the treatment of acne. Accordingly, the comment period is extended to July 17, 1995.

Interested persons may, on or before July 17, 1995, submit to the Dockets Management Branch (address above) written comments regarding the proposal. Three copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 16, 1995.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 95–12399 Filed 5–18–95; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 896

[Docket No. 83N–0193]

RIN 0905–AD83

Performance Standard for the Infant Apnea Monitor; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending to August 21, 1995, the comment period on the proposed rule that published in the **Federal Register** of February 21, 1995 (60 FR 9762). The document proposed to establish a mandatory performance standard for infant apnea monitors, which are a subset of breathing frequency monitors, also called neonatal apnea monitors. The infant apnea monitor is a system intended for use on infants to detect cessation of breathing. This action is based on a request from industry.

DATES: Written comments by August 21, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James J. McCue, Center for Devices and Radiological Health (HFZ–84), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–4765.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 21, 1995 (60 FR 9762), FDA published a proposed rule to establish a mandatory performance standard for infant apnea monitors, which are a subset of breathing frequency monitors, also called neonatal apnea monitors. The infant apnea monitor is a system intended for use on infants to detect cessation of breathing. FDA believes that a performance standard is necessary to ensure that infant apnea monitors accurately and reliably detect the absence of effective respiration and provide an alarm in such cases.

Interested persons were invited to comment by May 22, 1995. FDA received one request from industry to extend the comment period for 90 days. The request stated that this timeframe would allow sufficient time to gather the necessary data to develop effective comments.

FDA is extending the comment period for 90 days to ensure adequate time for preparation of comments. Accordingly, FDA finds under section 520(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(d)) that there is good cause for such an extension.

Interested persons may, on or before August 21, 1995, submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 10, 1995.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 95–12293 Filed 5–18–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS–013–88]

RIN 1545–AL57

Certain Publicly Traded Partnerships Treated as Corporations; Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction to notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to the notice of proposed rulemaking and notice of public hearing (PS–013–88) which was published in the **Federal Register** on Tuesday, May 2, 1995 (60 FR 21475), relating to the classification of certain publicly traded partnerships as corporations.

FOR FURTHER INFORMATION CONTACT: Christopher T. Kelley, (202) 622–3080, (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking and notice of public hearing that is the subject of these corrections proposes to add § 1.7704–1 to the Income Tax Regulations relating to the definition of a publicly traded partnership under section 7704(b) of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking and notice of public hearing

(PS–013–88) contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking and notice of public hearing (PS–013–88), which was the subject of FR Doc. 95–10765, is corrected as follows:

1. On page 21476, column 1, under the caption **DATES:**, last line, the language ''July 31, 1995'' is corrected to read ''July 10, 1995''.

2. On page 21478, column 3, in the preamble under the paragraph heading ''Comments and Public Hearing'', paragraph 4, lines 3 through 5, the language ''written comments and an outline of the topics to be discussed (a signed original and eight (8) copies) by July 31, 1995.'' is corrected to read ''written comments (a signed original and eight (8) copies) by July 31, 1995. The outline of topics to be discussed at the hearing must be received by July 10, 1995.''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 95–12363 Filed 5–18–95; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

West Virginia Program Amendment

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Notice of availability and opportunity for public comment.

SUMMARY: OSM is making available for public review and comment its draft decision document on a proposed amendment to the West Virginia permanent regulatory program (hereinafter referred to as the West Virginia program). The amendment concerns revisions to State law and regulations governing the Special Reclamation Fund and bonding requirements for surface coal mining operations. OSM has evaluated the proposed changes and made tentative findings on whether they can be approved as part of the West Virginia program. Where necessary, OSM proposed required amendments to bring the program into compliance with the Surface Mining Control and Reclamation Act of 1977 (SMCRA). OSM is inviting public comment on the proposed amendment and the tentative findings contained in the draft decision document. A public meeting is also scheduled.

DATES: Written comments must be received on or before 4 p.m., E.D.T. on June 5, 1995. A public meeting will be held at 1 p.m., E.D.T. on May 30, 1995, at the Holiday Inn, Heart-Of-Town, Washington and Broad Streets, Charleston, West Virginia.

ADDRESSES: Written comments should be mailed or hand delivered to James C. Blankenship, Jr., Director, Charleston Field Office at the address listed below.

Copies of the proposed amendment and draft decision document, the West Virginia program, and the administrative record on the West Virginia program are available for public review and copying at the address below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment and draft decision document by contacting OSM's Charleston Field Office.

James C. Blankenship, Jr., Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 1027 Virginia Street East, Charleston, West Virginia 25301, Telephone: (304) 347–7158

West Virginia Division of Environmental Protection, 10 McJunkin Road, Nitro, West Virginia 25143, Telephone: (304) 759–0515.

In addition, copies of the proposed amendment and draft decision document are available for inspection during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, P.O. Box 886, Morgantown, West Virginia 26507, Telephone: (304) 291–4004

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 323 Harper Park Drive, Suite 3, Beckley, West Virginia 25801, Telephone: (304) 255–5265

Office of Surface Mining Reclamation and Enforcement, Logan Area Office, 313 Hudgins Street, 2nd Floor, P.O. Box 506, Logan, West Virginia 25601, Telephone: (304) 752–2851.

FOR FURTHER INFORMATION CONTACT:

Mr. James C. Blankenship, Jr., Director, Charleston Field Office; Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program

SMCRA was passed in 1977 to address the growing environmental and safety problems associated with coal mining. Under SMCRA, OSM works with States to ensure that coal mines are operated in a manner that protects citizens and the environment during mining, that the land is restored to beneficial use following mining, and that the effects of past mining at abandoned coal mines are mitigated.

Many coal-producing States, including West Virginia, have sought and obtained approval from the Secretary of the Interior to carry out SMCRA's requirements within their borders. In becoming the primary enforcers of SMCRA, these ''primacy'' states accept a shared responsibility with OSM to achieve the goals of the Act. Such States join with OSM in a shared commitment to the protection of citizens—our primary customers—from abusive mining practices, to be responsive to their concerns, and to allow them full access to information needed to evaluate the effects of mining on their health, safety, general welfare, and property. This commitment also recognizes the need for clear, fair, and consistently applied policies that are not unnecessarily burdensome to the coal industry—producers of an important source of our Nation's energy.

Under SMCRA, OSM sets minimum regulatory and reclamation standards. Each primacy State ensures that coal mines are operated and reclaimed in accordance with the standards in its approved State program. The States serve as the front-line authorities for implementation and enforcement of SMCRA, while OSM maintains a State performance evaluation role and provides funding and technical assistance to States to carry out their approved programs. OSM also is responsible for taking direct enforcement action in a primacy State, if needed, to protect the public in cases of imminent harm or, following appropriate notice to the State, when a State acts in an arbitrary and capricious manner in not taking needed enforcement actions required under tits approved regulatory program.

Currently there are 24 primacy states that administer and enforce regulatory programs under SMCRA. These states may amend their programs, with OSM approval, at any time so long as they remain no less effective than Federal regulatory requirements. In addition, whenever SMCRA or implementing Federal regulations are revised, OSM is

required to notify the States of the changes so that they can revise their programs accordingly to remain no less effective than the Federal requirements.

A major goal of SMCRA is to ensure adequate reclamation of all areas disturbed by surface coal mining operations. To accomplish this, mining is allowed to proceed only after an operator has filed a performance bond of sufficient amount to ensure completion or reclamation. In the event of bond forfeiture, the regulator authority uses the performance bond money to contract for the necessary reclamation work. SMCRA also allows for the adoption of an alternative bonding system (ABS) so long as it achieves the purposes and objectives of the conventional bonding system described above. Under an ABS, rather than posting full-cost reclamation bonds, an operator is allowed to participate in a bond pool which is to provide sufficient revenue at any time to complete reclamation in the event of bond forfeiture.

As part of their approved programs, primacy States have adopted procedures consistent with Federal bonding requirements. The Secretary conditionally approved West Virginia's ABS on January 21, 1981 (46 FR 5326). After receipt of a required actuarial study, the Secretary fully approved the State's ABS on March 1, 1983 (48 FR 8448), by finding it consistent with section 509(c) of SMCRA.

Background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the January 21, 1981, **Federal Register** (46 FR 5915). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Discussion of the Proposed Amendment

On October 1, 1991, OSM notified West Virginia that it needed to amend its ABS to be in compliance with sections 509(c) , 519(b) and 519(c) of SMCRA (Administrative Record No. 878). OSM's annual reviews of the West Virginia program had found that the State's ABS no longer met the requirements for such systems because, as of June 30, 1990, liabilities exceeded assets by $6.2 million dollars. OSM also informed the State that its ABS must provide for the abatement or treatment of polluted water flowing from permanent program bond forfeiture sites unless its approved program included some other form of financial guarantee to provide for water treatment. The proposed amendment now under consideration was submitted to OSM in response to this letter and concurrent State initiatives to address bonding and water quality problems.

In a series of three letters dated June 28, 1993, and July 30, 1993 (Administrative Record Nos. WV–888, WV–889 and WV–893), the West Virginia Division of Environmental Protection (WVDEP) submitted an amendment to its approved permanent regulatory program that included numerous revisions to the West Virginia Surface Coal Mining and Reclamation Act (WVSCMRA § 22A–3–1 *et seq.*) and the West Virginia Surface Mining Reclamation Regulations (CSR § 38–2–1 *et seq.*). OSM grouped the proposed revisions that concern bonding into one amendment which is the subject of this notice. The proposed amendment will:

- Allow for the selection and prioritization of bond forfeiture sites to be reclaimed;
- Limit administrative expenditures from the Special Reclamation Fund to an amount not to exceed 10 percent of the total annual assets in the Fund;
- Raise the special reclamation tax from one cent to three cents per ton and provide for the collection of the tax whenever liabilities exceed assets;
- Limit the amount of money that can be used for water treatment to 25 percent of the annual amount of the fees collected;
- Require site-specific bonds that reflect the potential cost of reclamation but do not exceed $5,000 per acre;
- Require penal bonds instead of performance bonds; and
- Require bond forfeiture sites to be reclaimed in accordance with the approved reclamation plan or modifications thereof.

By letter dated April 1, 1994, OSM informed the WVDEP of probable deficiencies in the proposed amendment (Administrative Record No. WV–916). The WVDEP and OSM met on April 25, May 5, June 20, and August 5, 1994, to resolve these issues. During this time, WVDEP and OSM exchanged technical studies, policy statements, legal opinions, and explanations to clarify positions and where possible reach agreement. On August 30, 1994, OSM sent WVDEP a letter stating the tentative resolutions of the issues listed in the April 1, 1994, letter. These documents and a summary of the meetings are in Administrative Record Nos. WV–916 through 933.

OSM announced receipt of the proposed amendment in the August 12, 1993, **Federal Register** (58 FR 42903) and invited public comment on its adequacy. Following this initial comment period, WVDEP revised the amendment on March 12, 1994, and September 1, 1994 (Administrative Record Nos. WV–933 and WV–937). OSM reopened the comment period on August 31, 1994, and September 29, 1994, and held public meetings in Charleston, West Virginia on September 7, 1993, and October 27, 1994 (Administrative Record No. WV–958).

III. Public Comment Procedures

OSM is reopening the comment period on the West Virginia program amendment to provide the public an opportunity to review OSM's draft decision document and to comment prior to making a final decision. OSM is seeking comments on whether the proposed amendment satisfies the applicable program criteria of 30 CFR 732.15. Additional public comment is requested on how OSM and WVDEP should address the following:

1. State records show that as of June 30, 1994, there was a backlog of 243 bond forfeiture sites totalling 10,996 acres that had not been completely reclaimed. Total liabilities of the Special Reclamation Fund exceeded total assets by 22.2 million dollars. This estimate does not include the cost of treating water at bond forfeiture sites. How can this backlog in reclamation work be completed in a timely manner and how should the Special Reclamation Fund be made financially sound?

2. The WVDEP identified 89 bond forfeiture sites that were producing approximately 10 percent of the acid mine drainage in the State. WVDEP estimated that it would cost two to four million dollars annually to treat this water to meet Federal and State effluent limitations and water quality standards. What is the best approach to dealing with acid mine drainage from these and future bond forfeiture sites?

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the OSM Charleston Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Meeting

Persons requesting to speak at the meeting should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.** Submission of written statements in advance of the meeting

will allow OSM to study the remarks and ask questions of the speakers.

The meeting will continue on the specified date until all persons scheduled to speak have been heard. Persons in the audience who have not been scheduled to speak, and who wish to do so, will be heard following those who have been scheduled. The meeting will end after all persons who wish to speak have spoken.

Any disabled individual who has need for a special accommodation to attend the public meeting should contact the individual listed under **FOR FURTHER INFORMATION CONTACT.**

IV. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 502 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA [30 U.S.C. 1292(d)] provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: May 12, 1995.

Richard J. Seibel,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 95–12362 Filed 5–18–95; 8:45 am]

BILLING CODE 4310–05–M

National Park Service

36 CFR Part 7

Cape Cod National Seashore Off-Road Vehicle Use Negotiated Rulemaking Committee

AGENCY: National Park Service, Interior.

ACTION: Notice of Intent to Establish a Negotiated Rulemaking Committee.

SUMMARY: As required by section 3 of the Negotiated Rulemaking Act of 1990, 5 U.S.C. section 564, the National Park Service (NPS) is giving notice of its intent to establish a Negotiated Rulemaking Committee to negotiate and develop a proposed rule revising off-road vehicle use regulations at Cape Cod National Seashore. NPS has determined that the establishment of this Committee is in the public interest and supports the NPS in performing its duties and responsibilities under the National Park Service Organic Act, 16 U.S.C. 1 *et seq.*, and the Endangered Species Act, 16 U.S.C. 1531 *et seq.* Copies of the Committee's charter will be filed with the appropriate committees of Congress and with the Library of Congress in accordance with section 9(c) of the Federal Advisory Committee Act (FACA), 5 U.S.C. Appx.

DATES: NPS invites any interested person to comment on the proposal to create this Committee. In addition, NPS invites persons who believe that they will be significantly affected by the proposed rule and who believe their interests will not be adequately represented by the persons identified in this Notice, to apply for, or nominate another person for membership on the Committee. Each application must contain the information described in the ''Application for Membership'' section below. Applications or nominations for membership on the Committee should be submitted on or before June 19, 1995.

ADDRESSES: Comments and applications should be submitted to: Andrew T. Ringgold, Superintendent, Cape Cod National Seashore, South Wellfleet, MA 02663. Comments and applications received will be available for inspection at the address listed above from 8:00 a.m. to 4:30 p.m. EST, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Andrew T. Ringgold, Superintendent, Cape Cod National Seashore, at the address listed above, or by telephone at (508) 349–3785, ext. 202.

SUPPLEMENTARY INFORMATION: The Committee's function will be to negotiate and develop a proposed rule to revise regulations that govern off-road vehicle use at Cape Cod National Seashore. It will attempt, via face-to-face negotiations, to reach consensus on concepts and language to use as the basis for a proposed rule to be published by the NPS in the **Federal Register** that would revise existing regulations codified at 36 CFR 7.67(a). The existing regulations have not been effective in resolving longstanding and controversial resource management and public use conflicts at the Seashore. With the participation of knowledgeable, affected parties, NPS expects to develop a practical approach to addressing these management and public use issues involving the protection of beach environments, their associated floral and faunal communities, and the public's desire for access to beach areas by motorized vehicle for fishing and other recreational activities.

Scope of the Proposed Rule: Within the constraints of NPS statutory responsibilities to preserve natural and cultural resources and to provide for their enjoyment, the Committee will evaluate and address key issues including, but not limited to, the designation of specific off-road vehicle routes and areas, the periods of the year and times of day during which off-road vehicles may be operated, and other

conditions that govern the operation of off-road vehicles at Cape Cod National Seashore. It is anticipated that the Committee will develop proposed regulations in all of the above-referenced areas.

List of Interests Significantly Affected: The NPS has identified a number of interests who are likely to be affected significantly by the rule. Those parties are conservation and environmental organizations, recreational fishing organizations, off-road vehicle organizations, local town governments, commercial interests, and Federal, State and regional land use management and wildlife management agencies. Other parties who believe they are likely to be affected significantly by the Rule may apply for membership on the Committee pursuant to the ''Application for Membership'' section below.

Proposed Agenda and Schedule for Publication of Proposed Rule: Members of the Committee, with the assistance of a neutral facilitator, will determine the agenda for the Committee's work. The NPS expects to publish a proposed rule in the **Federal Register** before September 30, 1995.

Records of Meetings: In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. Appx. 1988, the NPS will keep a record of all Committee meetings.

Administrative Support: To the extent authorized by law, the NPS will fund the costs of the Committee and provide administrative support and technical assistance for the activities of the Committee. The NPS will also provide staff expertise in resource management and operations to facilitate the Committee's work.

Committee Membership: The Negotiated Rulemaking Act limits negotiated rulemaking committee membership to 25 members. NPS proposes the following membership for the Cape Cod National Seashore Off-Road Vehicle Use Negotiated Rulemaking Committee:

1. The interests of the Department of the Interior will be represented by the following two members:
   a. National Park Service—Andrew T. Ringgold
   b. U.S. Fish & Wildlife Service—Sussi von Oettingen
2. The interests of Environmental and Conservation organizations will be represented by the following four members:
   a. Association for the Preservation of Cape Cod—Susan Nickerson
   b. Conservation Law Foundation—Emily Bateson
   c. Massachusetts Audubon Society—John Clarke
   d. Sierra Club—David Dow
3. The interests of recreation/public use organizations will be represented by the following four members:
   a. Cape Cod Salties—Louis MacKeil
   b. Citizens Concerned for Seacoast Management—Ignatius Piazza
   c. Highland Fish and Game Club—Arthur Parker
   d. Massachusetts Beach Buggy Association—Ron Hebb—(508–881–6807)
4. The interests of the Commonwealth of Massachusetts will be represented by the following three members:
   a. Massachusetts Coastal Zone Management Agency—Pamela Rubinoff
   b. Massachusetts Department of Environmental Protection—Elizabeth Kouloharis
   c. Massachusetts Division of Fisheries and Wildlife—Thomas French
5. Regional planning, land use, tourism and economic development interests will be represented by two members:
   a. Cape Cod Chamber of Commerce—Michael Frucci
   b. Cape Cod Commission—Armando Carbonell
6. The interests of local town governments and residents will be represented by 6 members:
   a. Provincetown—Irene Rabinowitz
   b. Truro—Robert Martin
   c. Wellfleet—Robert Costa
   d. Eastham—Henry Lind
   e. Orleans—Paul Fulcher
   f. Chatham—Wayne Love.

Application for Membership: Persons who believe they will be significantly affected by proposals to revise off-road vehicle use regulations at Cape Cod National Seashore and who believe that interests will not be adequately represented by any person identified in the ''Committee Membership'' section above, may apply for, or nominate another person for membership on the Cape Cod National Seashore Off-road Vehicle Use Negotiated Rulemaking Committee. In order to be considered complete, each application or nomination must include:

1. The name of the applicant or nominee and a description of the interest(s) such person will represent;

2. Evidence that the applicant or nominee is authorized to represent parties related to the interest(s) the person proposed to represent;

3. A written commitment that the applicant or nominee will actively participate in good faith in the development of the proposed rule; and

4. The reasons that the proposed members of the committee identified above do not represent the interests of the person submitting the application or nomination.

To be considered, the application must be complete and received by the close of business on June 19, 1995 at the location indicated in the ''Address'' section above. NPS will give full consideration to all applications and nominations timely submitted. The decision whether or not to add a person to the Cape Cod National Seashore Off-Road Vehicle Use Negotiated Rulemaking Committee will be based on NPS's determination whether an interest of that person will be significantly affected by the proposed rule, whether that interest is already adequately represented on the Committee, and if not, whether the applicant or nominee would adequately represent it.

Certification

I hereby certify that the administrative establishment of the Cape Cod National Seashore Off-Road Vehicle Use Negotiated Rulemaking Advisory Committee is necessary and in the public interest in connection with the performance of duties imposed on the Department of the Interior by the Act of August 25, 1916, 16 U.S.C. 1 *et seq.* and other statutes relating to the administration of the National Park System.

Dated: March 9, 1995.

Bruce Babbitt,

Secretary of the Interior.

[FR Doc. 95–12374 Filed 5–18–95; 8:45 am]

BILLING CODE 4310–70–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL12–42–7001; FRL–5208–5]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; extension of the public comment period.

SUMMARY: The United States Environmental Protection Agency (USEPA) promulgated the Chicago ozone Federal Implementation Plan (FIP) on June 29, 1990. Included in USEPA's FIP was a requirement that staple manufacturing facilities such as Duo-Fast Corporation's Franklin Park, Illinois facility be subject to specific emission limits. On November 27, 1990, Duo-Fast filed a petition for reconsideration with USEPA in which it contended that USEPA failed to respond to Duo-Fast's March 2, 1990, comments in response to USEPA's December 27, 1990, proposed promulgation of the

Chicago FIP. On November 19, 1994 (59 FR 59739), USEPA published a proposed rule on this reconsideration which offered the opportunity for a public hearing. A public hearing was held on the November 19, 1994, proposed rule on March 8, 1995, and the public comment period was reopened February 3, 1995 (60 FR 6687) and remained open until April 7, 1995 (30 days after the public hearing). At the request of Duo-Fast, USEPA is granting a further ninety day extension of the public comment period until July 6, 1995.

DATES: The public comment period is reopened from May 19, 1995 until July 6, 1995.

ADDRESSES: Written comments on the proposed rule should be addressed to: J. Elmer Bortzer, Chief, Regulation Development Section (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Comments should be strictly limited to the subject matter of the November 18, 1994 proposed rule.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Regulation Development Branch, 18th Floor Southwest, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6052.

Dated: May 9, 1995.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 95–12303 Filed 5–18–95; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 281

[FRL–5208–8]

Connecticut, Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination to approve the State of Connecticut's Underground Storage Tank Program, Public Hearing and Public Comment Period.

SUMMARY: The State of Connecticut has applied for final approval of its underground storage tank (UST) program under Subtitle I of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 9004 *et seq.* The Environmental Protection Agency (EPA) has reviewed Connecticut's application and has made the tentative decision that Connecticut's underground storage tank program satisfies all of the requirements necessary to qualify for final program approval. EPA intends to grant final approval to Connecticut to operate its program in lieu of the Federal program. Connecticut's application for final approval is available for public review and comment and a public hearing will be held to solicit comments on the application, if requested.

DATES: All written comments on Connecticut's state program approval application must be postmarked no later than June 21, 1995. EPA will then respond to written comments where issues are raised concerning EPA's tentative program approval.

A public hearing is scheduled for June 21, 1995. The hearing will begin at 10:00 a.m. and will continue until the end of testimony or 1:00 p.m., whichever is later. Connecticut will participate in any public hearing held by EPA on this subject. Requests to present oral comments at the hearing must be received at EPA by June 14, 1995.

EPA reserves the right to cancel the public hearing if significant public interest in a hearing is not communicated to EPA, in writing, and postmarked by June 14, 1995.

EPA will determine after June 14, 1995 whether there is significant interest to hold a public hearing. In the event the public hearing is cancelled, persons requesting to present oral comments will be timely notified of the cancellation.

ADDRESSES: Written comments should be mailed to Andrea Beland, Underground Storage Tank Program, HPU–7, U.S. EPA, Region I, JFK Federal Building, Boston, Massachusetts 02203, Phone: (617) 573–9604.

The public hearing will be held at the State Capitol Building, Old Judiciary Hearing Room, 210 Capitol Ave., Hartford, Connecticut.

Copies of Connecticut's final approval application are available between 8:30 a.m.–4:00 p.m., Monday through Friday, at the following locations for review and copying:

Connecticut Department of Environmental Protection, Waste Management Bureau, 79 Elm Street, Hartford, Connecticut 06106, Phone: (203) 424–3374; (Attn.: Kelly McShea);

U.S. EPA Headquarters, Library, Room 211A, 401 M Street, Washington, D.C. 20460, Phone: (202) 382–5926;

U.S. EPA, Region I Library, 1 Congress Street, 11th Floor, Boston, Massachusetts 02203, Phone: (617) 565–3300.

FOR FURTHER INFORMATION CONTACT: Andrea Beland, HPU–7, Underground Storage Tank Program, U.S. EPA, Region I, JFK Federal Building, Boston, Massachusetts 02203, Phone: (617) 573–9604. Comments should be sent to this address.

SUPPLEMENTARY INFORMATION:

A. Background

Section 9004 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 9004, authorizes EPA to approve State underground storage tank programs to operate in lieu of the Federal underground storage tank (UST) program. Program approval is granted by EPA, if the Agency finds that the State program:

(1) Is ''no less stringent'' than the Federal program in all eight elements found at 40 CFR 281;

(2) Includes the notification requirements found at Section 9004(a)(8), 42 U.S.C. 6991c(a)(8); and

(3) Provides for adequate enforcement of compliance with UST standards at Section 9004(a), 42 U.S.C. 6991c(a).

B. Connecticut

In February of 1991, the State of Connecticut submitted a draft UST application to EPA for program approval. The Connecticut Department of Environmental Protection (CT DEP) prepared and submitted the application, because it is responsible for the underground storage tank regulatory program and the leaking underground storage tank corrective action program.

The CT DEP, working with EPA, amended its UST rules, to meet the ''no less stringent'' federal requirements. Consistent with Connecticut's laws, the State provided public notice and an opportunity to comment on the amended regulations, Connecticut DEP held public hearings on May 22, 1992 and on September 29, 1992. The proposed regulations were rejected without prejudice by Connecticut's Legislative Regulation Review Committee (LRRC) most recently in April of 1994. However, CT DEP corrected the regulations and the LRRC approved them. The regulations then became effective on July 28, 1994, but were not fully enforceable until they were published on September 27, 1994.

In accordance with the requirements of 40 CFR 281.50(b), Connecticut published a public notice on April 14, 1992 and August 25, 1992, announcing a public hearing to be held on May 22, 1992 and September 29, 1992, respectively and requesting comments on Connecticut's intention to seek program approval. On December 28, 1994, EPA received a Final Application for program approval.

EPA reviewed Connecticut's application and tentatively determined that the state's program meets all of the

requirements necessary to qualify for final program approval. Consequently, EPA intends to grant final approval to Connecticut to operate its UST program in lieu of the Federal UST program.

Based on a detailed review of Connecticut's application for UST program approval, EPA has determined that the Connecticut Department of Environmental Protection has developed standards and criteria for the design, installation, operation, maintenance, and monitoring of underground storage tanks to prevent UST related ground and surface water contamination, under the authority of the Connecticut General Statue Section 22a–449(d) and Regulations of Connecticut State Agency (''R.C.S.A.'') Sections 22a–449(d)–101 through 113.

Connecticut General Law provides:

(1) Authority to promulgate UST regulations for controlling underground storage facilities containing petroleum and hazardous substances;

(2) Authority to impose civil penalties for violations of any statutory or regulatory requirement;

(3) Authority to conduct compliance monitoring inspections and other enforcement activities;

(4) Authority to promulgate UST notification requirements for owners and operators of underground storage tanks; and

(5) Authority for the response to, clean up, and corrective actions of petroleum or hazardous substance releases.

C. Public Hearing and Comments

In accordance with Section 9004 of RCRA, 42 U.S.C. 6991c and 40 CFR 281.50(e), if sufficient public interest is received by June 14, 1995, EPA will hold a public hearing on its tentative decision on June 21, 1995 from 10:00 a.m.–1:00 p.m. in the State Capitol Building, Old Judiciary Room, 210 Capitol Ave., Hartford, Connecticut.

The public may also submit written comments on EPA's tentative determination. Written comments must be postmarked by May 31, 1995 as to allow EPA and the state a reasonable opportunity to research and prepare responses. Copies of Connecticut's application are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this notice.

EPA will consider all public comments on its tentative determination received during the public comment period and at the hearing. Issues raised by those comments may be the basis for a decision to deny final approval to Connecticut. EPA expects to make a final decision on whether or not to approve Connecticut's program within sixty (60) days after the date of the public hearing and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all significant comments.

Compliance With Executive Order 122866

The Office of Management and Budget has exempted this rule from the requirement of Section 6 of Executive Order 122866.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. The approval of Connecticut's UST program effectively suspends the applicability of the Federal UST regulations, thereby eliminating duplicative requirements for owners and operators of underground storage tanks in the State of Connecticut. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 281

Environmental protection, Hazardous substances, Incorporation by reference, Intergovernmental relations, State program approval, Underground storage tanks, Water pollution control.

Authority: This notice is issued under the authority of Section 9004 of the Solid Waste Disposal Act as amended, 42 U.S.C 6991c.

Dated: May 6, 1995.

John P. DeVillars,

Regional Administrator.

[FR Doc. 95–12302 Filed 5–18–95; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[WT Docket No. 95–69, FCC 95–202]

Auctionable Services

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Notice of Proposed Rulemaking contains proposed rules pertaining to fees for certain services and products provided to specific persons and entities participating in future Federal Communications Commission auctions. In particular, the proposal establishes fees for Commission proprietary remote software packages, on-line communications service charges, and bidder's information packages in connection with auctionable services. The Commission, in establishing the proposed fees, implements the Independent Offices Appropriations Act. The Commission's proposal would receiver the Federal Government's cost from any bidders utilizing Commission-provided services.

DATES: Written comments must be submitted by May 31, 1995, and written reply comments must be submitted by June 6, 1995.

ADDRESSES: Send comments and reply comments to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Interested parties who do not wish to participate formally in this proceeding may file informal comments at the same address.

FOR FURTHER INFORMATION CONTACT: Bert Weintraub, Wireless Telecommunications Bureau, (202) 418–1316.

SUPPLEMENTARY INFORMATION: In previous Federal Communications Commission (hereafter, ''Commission'' or ''FCC'') auctions, bidders have paid auction contractors of the Commission fees consisting of the contractors' costs and a reasonable profit for remote bidding software and an on-line access charge. The Independent Offices Appropriations Act (''IOAA''), codified at 31 U.S.C. § 9701, permit fees and charges for Government services and things of value and authorizes agencies to prescribe regulations establishing charges for products and services provided by the agency. The Office of Management and Budget (''OMB'') has issued policy guidance on fees via Circular A–25 for agencies to recover expenses. The OMB published a revised revision of the Circular in the **Federal Register**, 58 FR 38142 (July 15, 1993), which provided updated policy guidance on user fees. Pursuant to this revision, the imposition of fees for Government-provided products and services conferring benefits on identifiable recipients over and above those benefits received by the general public are encouraged. Under the OMB Circular, agencies, in establishing fees, are to select between ''full cost'' or ''market price.''

On August 10, 1993, the Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103–66, 107 Stat. 312, added a new section 309(j) to the Communications Act of 1934, 47 U.S.C. § 309(j). This amendment to the Communications Act authorized the Commission to use competitive bidding

procedures to choose from among two or more mutually exclusive applications for initial licenses for use of the radio spectrum. Pursuant to this authority, the Commission has conducted three simultaneous multiple round auctions for Personal Communications Service (''PCS'') licenses (*i.e.*, the Nationwide Narrowband PCS auction, held from July 25 through July 29, 1994; the Regional Narrowband PCS auction, held October 26, through November 8, 1994; and the Broadband A and B block PCS auction, held December 5, 1994, through March 13, 1995). In each PCS auction, bids were placed electronically using a computer bidding system designed and developed by the FCC in conjunction with its auction contractors.

The Commission and its auction contractors incurred significant costs in developing the on-site electronic bidding systems used in the PCS auctions and the remote electronic bidding system used in two of the PCS auctions. The Commission recovered its developments costs for the electronic bidding system for the first three auctions from the proceeds of those actions. Additionally, the FCC's auction contractor was allowed to charge bidders electing to use on-line remote bidding system a $200.00 fee for the proprietary remote bidding software package and an on-line access charge. The FCC has determined, based on its auction experience, that remote electronic bidding provides bidders with an important and valuable service as it enables them to place and withdraw bids, access auction round results and other FCC announcements during the auction from their offices using their personal computer. Thus, bidders are not required to be physically present at the auction site for the duration of the auction. Because the Commission will provide these services directly to bidders, the Commission proposes to recover the Federal Government's costs by charging bidders a fee for the remote electronic bidding software and an on-line access charge via a 900 telephone service (''900 service''). Bidders will continue to have the option of placing their bids telephonically from remote locations via an 800 telephone service at no charge. Round results information is also available to remote access bidders over the Internet and the Commission's Bulletin Board at no charge.

The significant costs and expenses incurred by the Federal Government in developing the remote electronic auction system have included infrastructure design and implementation, software development, software testing, and administrative and personnel costs associated with this process. The Commission has developed its own remote on-line bidding system to be offered as a convenience to bidders in future auctions, enabling bidders to participate in auctions from their offices using their personal computers, submit and review applications, and access auction round results information from remote locations using a 900 service. The Notice of Proposed Rulemaking (''NPRM'') proposes to recover the costs to the Government by charging bidders who elect to bid electronically from remote locations a fee for the remote bidding software and for remote access to the bidding system via the 900 service. The Commission's remote electronic bidding system will enable bidders to participate in Commission auctions, review applications, and access auction round results information from remote locations using a Wide Area Network to connect with the bidding system via a 900 telephone service. The proposed rule would recover future costs from bidders who directly benefit from the services and products offered by the Commission in conjunction with holding the auctions. Imposing such fees on bidders who actually use the remote electronic bidding system is the fairest and most equitable manner for the Government to recover its costs in developing, maintaining, enhancing, and upgrading the remote bidding system.

In proposing the fees, the Commission has followed OMB guidance and relevant court cases in calculating the costs of the 900 service, remote access bidding software, and bidder's information packages, utilizing ''market price'' instead of ''full cost'' because it is simpler, more practical, more efficient, and more readily ascertainable. As a result, based upon market surveys for 900 service, remote access bidding software, and bidder's information packages, the NPRM proposes the following fees: $4.00 per minute for 900 service; $200.00 per package for remote bidding software, one free bidder's information package and $16.00 for each additional bidder's information package requested by that same person or entity.

The proposed fee of $4.00 per minute for 900 service is based on the FCC's survey of the charges for similar on-line services. The services surveyed were mainly on-line reference and research services operating in the open market with sufficient competition to establish a market-based price. FCC sampling revealed that prices currently range from $4.05 per minute to $4.42 per minute (plus monthly account maintenance fees). Even though the average price for this type of services $4.23 per minute, $4.00 per minute is proposed. The proposed $200.00 fee for the remote access bidding software packages was based upon the open market prices for similar software packages. FCC research indicated that the most comparable software package currently available is $200.00 per package and offered by only one supplier. Due to highly specialized nature of the remote access software, the Commission could not identify other comparable software packages for which it could obtain additional market price information. The proposed $16.00 fee for each additional bidder's information package was developed by comparing the average cost of producing bidder's information packages in the open market amount commercial printing firms. The previous prices ranged from $13.50 to $18.50 (both figures include postage), and $16.00 is the average of this range. Payment procedures to collect the fees are proposed as follows: the fee for the 900 service will appear as a charge on the user's monthly telephone bill; the fees for the software packages and bidder's information packages will be collected by the Commission's auction contractor. Funds received from the sale of auction materials, software, or services, pursuant to the IOAA, must go directly to the U.S. Treasury.

This action is taken pursuant to Sections 4(i), 7(a), 302, 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 157(a), 302, 303(c), 303(f), 303(g), and 303(r).

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–12462 Filed 5–18–95; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 20

[GN Docket No. 93–252, FCC 95–156]

Regulatory Treatment of Mobile Services

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: The Commission adopted a *Third Further Notice of Proposed Rulemaking* proposing to amend its 45

MHz spectrum cap for cellular telephone service, Specialized Mobile Radio (SMR) service, and broadband Personal Communications Service (PCS). While the spectrum cap currently applies only to licensees in these services who are classified as Commercial Mobile Radio Service (CMRS) providers, the Commission proposes to extend the cap to all cellular, SMR, and broadband PCS providers regardless of their regulatory classification. The *Third Further Notice of Proposed Rulemaking* also seeks comment on applying the spectrum cap to those ''grandfathered'' SMR licensees who continue to be regulated as Private Mobile Radio Service (PMRS) providers until August 10, 1996. The intended effect of the proposed rule for cellular, SMR and PCS providers is to ensure regulatory symmetry in the regulation of competing commercial mobile radio services.

DATES: Comments are to be filed on or before June 5, 1995. Reply Comments are to be filed on or before June 26, 1995.

ADDRESSES: Comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Lisa Warner, (202) 418–0620, Wireless Telecommunications Bureau.

SUPPLEMENTARY INFORMATION: This is a synopsis of the *Third Further Notice of Proposed Rulemaking,* adopted April 10, 1995, and released May 5, 1995. The complete text of this *Further Notice of Proposed Rulemaking* is available for inspection and copying during normal business hours in the FCC Dockets Branch, Room 239, 1919 M Street NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, at (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Synopsis of the Third Further Notice of Proposed Rulemaking

Adopted: April 10, 1995.

Released: May 5, 1995.

1. The Commission initially proposed the spectrum cap in the *Further Notice of Proposed Rulemaking,* GN Docket No. 93–252, 59 Fed. Reg. 28,042 (May 31, 1994), in this proceeding. The Commission framed the spectrum cap issue in terms of CMRS spectrum, and did not address the aggregation of PMRS spectrum. On August 9, 1994, in the *Third Report and Order* in this proceeding, GN Docket No. 93–252, 59 Fed. Reg. 59945 (Nov. 21, 1994), the Commission applied the spectrum cap only to cellular, SMR, and broadband PCS services. The cap only applied to cellular, SMR, and broadband PCS licensees whose activities are regulated as CMRS.

2. The Commission notes in the *Third Further Notice of Proposed Rulemaking* that there is potential for a licensee to reduce the number of competitors by aggregating spectrum regardless of whether the licensee is providing CMRS or PMRS. Moreover, the services provided by PMRS providers may well be viewed as competitive alternatives to CMRS by customers; thus, excluding them from the cap could provide PMRS providers with an unfair competitive advantage over CMRS providers. In addition, even if most cellular, SMR, and broadband PCS providers provide CMRS services, as is likely to be the case, determining the precise amount of CMRS spectrum that should be attributed for spectrum cap purposes is likely to be difficult, particularly in the case of PCS, SMR, and possibly cellular licensees who provide both CMRS and PMRS offerings under a single authorization.

3. For all of these reasons, the Commission proposes that the 45 MHz spectrum cap be revised to apply to cellular, SMR, and broadband PCS licensees regardless of regulatory classification. The Commission believes that such a revision will greatly simplify the application of the cap and will provide greater certainty regarding its effect to cellular, SMR, and broadband PCS applicants and licensees.

Initial Regulatory Flexibility Analysis

4. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the policies and rules proposed in this Further Notice of Proposed Rulemaking. Written public comments are requested on the IRFA.

5. *Reason for Action:* This rule making proceeding was initiated to secure comment on proposals for revising the 45 MHz spectrum cap for cellular telephone service, SMR, and PCS. The spectrum cap currently applies to CMRS providers. The Commission proposes to extend the cap to all cellular, SMR, and broadband PCS providers regardless of their regulatory classification. The proposals advanced in the *Third Further Notice of Proposed Rulemaking* are designed to implement Congress's goal of regulatory symmetry in the regulation of competing commercial mobile radio services as described in Section 3(n) and 332 of the Communications Act, 47 U.S.C. §§ 153(n), 332, as amended.

6. *Objective*: The Commission proposed to adopt a rule for cellular, SMR and PCS providers that is intended to ensure regulatory symmetry in the regulation of competing commercial mobile radio services.

7. *Legal Basis*: The proposed action is authorized under Sections 3(n), 4(i), 332(a), 332(c) and 332(d) of the Communications Act of 1934, 47 U.S.C. §§ 153(n), 154(i), 332(a), 332(c) and 332(d), as amended.

8. *Reporting, Recordkeeping, and Other Compliance Requirements*: Under the proposal contained in the *Third Further Notice of Proposed Rulemaking* there are no additional reporting or recordkeeping requirements.

9. *Federal Rules Which Overlap, Duplicate or Conflict With These Rules*: None.

10. *Description, Potential Impact, and Number of Small Entities Involved*: The *Third Further Notice of Proposed Rulemaking* does not potentially affect small entities. After evaluating comments filed in response to the *Third Further Notice of Proposed Rulemaking,* the Commission will examine further the impact of all rule changes on small entities and set forth its findings in the Final Regulatory Flexibility Analysis.

11. *IFRA Comments*: The Commission requests written public comment on the foregoing Initial Regulatory Flexibility Analysis. Comments must have a separate and distinct heading designating them as responses to IRFA and must be filed by the deadlines provided above.

Ex Parte Rules—Non-Restricted Proceeding

12. This is a non-restricted notice and comment rule-making proceeding. *Ex Parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules. *See generally* 47 C.F.R. Sections 1.1202, 1.1203, and 1.1206(a).

List of Subjects in 47 CFR Part 20

Commercial mobile radio services.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 95–12299 Filed 5–18–95; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 424

[I.D. 050895C]

Endangered and Threatened Species; Notice of Public Hearing On Proposed Status for the Klamath Mountains Province Steelhead

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings; request for public comments and extension of the public comment period.

SUMMARY: NMFS is announcing dates and locations for public meetings concerning the proposed listing of natural steelhead (*Oncorhynchus mykiss*) populations occurring between Cape Blanco, OR, and the Klamath River Basin, CA (referred to as the Klamath Mountains Province), as threatened under the Endangered Species Act (ESA). Hearings on the proposed listing will provide the opportunity for the public to give comments and will permit an exchange of information and opinion among interested parties. In addition, this notice serves to extend the public comment period an additional 60 days until July 14, 1995.

DATES: The hearings on the proposed listing will be held as follows:

1. June 21, 1995, 6:30 p.m. to 9:30 p.m., Medford, OR
2. June 22, 1995, 6:30 p.m. to 9:30 p.m., Gold Beach, OR
3. June 27, 1995, 7:00 p.m. to 9:30 p.m., Crescent City, CA

ADDRESSES: Send written comments to Garth Griffin, Environmental and Technical Services Division, NMFS, Northwest Region, 525 NE Oregon St, Suite 500, Portland, OR 97232–2737. The hearings on the proposed listing will be held at the following locations:

1. Medford—Medford City Hall—City Council Chambers, 411 W. 8th Street, Medford, OR
2. Gold Beach—Gold Beach City Hall—City Council Chambers, 510 S. Ellensburg Avenue, Gold Beach, OR
3. Crescent City—Crescent City Community Cultural Center—Atrium Room, 1001 Front Street, Crescent City, CA

FOR FURTHER INFORMATION CONTACT: Garth Griffin; 503–231–2005; R. Craig Wingert, 310–980–4021; or Marta Nammack, 301–713–2322.

SUPPLEMENTARY INFORMATION: On March 16, 1995, NMFS issued a proposed rule (60 FR 14253) to list natural steelhead (*Oncorhynchus mykiss*) populations occurring between Cape Blanco, OR, and the Klamath River Basin, CA, as threatened under the ESA. The Department of Commerce's ESA implementing regulations state that the Secretary of Commerce shall promptly hold at least one public hearing if any person so requests within 45 days of publication of a proposed regulation to list...a species (50 CFR 424.16 (c)(3)).

The public will have an opportunity to provide oral or written testimony at the public hearings. Written comments on the proposed rule may also be sent to Garth Griffin (see **ADDRESSES**). These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Garth Griffin (see **ADDRESSES**).

Dated: May 16, 1995.

Russell J. Bellmer,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 95–12391 Filed 5–18–95; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 60, No. 97

Friday, May 19, 1995

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV–95–301]

Advisory Committee for Fresh Products Shipping Point Inspection Program

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of intent to establish; request for nominations and comments.

SUMMARY: The U.S. Department of Agriculture (USDA) proposes to establish the advisory committee for the Fresh Products Branch Shipping Point Inspection Program. The purpose of the Committee is to review the Fresh Products Shipping Point Inspection Program, and confer with Department officials regarding its administration, operations, and funding. This document seeks nominations of individuals to be considered for selection as Committee members. Comments are requested on categories of membership and duties of the committee.

DATES: Written nominations must be received on or before June 19, 1995.

ADDRESSES: Nominations should be sent to Mr. Larry B. Lace, Chief, Fresh Products Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2056 South Building, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Larry B. Lace, (202) 720–5870.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Secretary of Agriculture intends to establish the Advisory Committee for the Fresh Products Shipping Point Inspection Program, hereafter referred to as Committee. The purpose of the Committee is to review the Fresh Products Shipping Point Inspection Program and confer with Department officials regarding its administration, operations, and funding. On the basis of its review, the Committee shall develop recommendations for consideration by the Secretary of Agriculture with regard to the desired level of services, staffing levels, user fee rates, collection of such fees for the Fresh Products Shipping Point Inspection Program, and other such matters as it may deem advisable or which the Secretary of Agriculture, the Agricultural Marketing Service (AMS) Administrator, or AMS Fruit and Vegetable Division Director may request.

The Secretary of Agriculture has determined that the work of the Committee is in the public interest in view of the cooperative agreements for implementing the Fresh Products Shipping Point Inspection Program with all 50 States and Puerto Rico.

The Administrator of the Agricultural Marketing Service (AMS), will be Chairperson of the Committee. The Deputy Director of the Fruit and Vegetable Division, AMS, will be Vice-Chairperson. In the absence of the Chairperson, the Vice-Chairperson will act in his/her stead. The Chief of the Fresh Products Branch, Fruit and Vegetable Division, AMS, will serve as the Committee's Executive Secretary. Staff support essential to the execution of the Committee's responsibilities shall be provided by AMS, Fruit and Vegetable Division.

Committee members shall be appointed by the Secretary of Agriculture and shall serve for the entire term of the Committee. The Committee shall be comprised of twenty (20) members; five (5) representatives of State cooperators and fifteen (15) members representing balanced interests of the fruit and vegetable industry, including but not limited to growers, shippers, receivers, processors, and other interested parties. One alternate member for every two regular Committee members shall also be appointed.

The Secretary of Agriculture invites those individuals, organizations, and groups affiliated with the fruit, vegetable, or nut industries, to nominate individuals for membership on the Committee. Nominations should describe and document the proposed member's qualifications for membership to the Committee. The Secretary seeks a diverse group of members representing a broad spectrum of persons interested in the Fresh Products Shipping Point Inspection Program.

Individuals receiving nominations will be contacted and biographical information must be completed and returned to the USDA within five (5) working days of its receipt, to expedite the clearance process that is required before selection by the Secretary of Agriculture.

Equal opportunity practices will be followed in all appointments to the Committee in accordance with USDA policies. To ensure that the recommendations of the Committee have taken into account the needs of the diverse groups served by the Department, membership shall include, to the extent practicable, individuals with demonstrated ability to represent minorities, women, and persons with disabilities.

Dated: March 30, 1994.

Wardell C. Townsend, Jr.,

Assistant Secretary for Administration.

[FR Doc. 94–12364 Filed 5–18–94; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Fishing Capacity Reduction Demonstration Program.

Agency Form Number(s): None Assigned.

OMB Approval Number: None.

Type of Request: New Collection.

Burden: 1,210 hours.

Number of Respondents: 1,050.

Avg. Hours Per Response: Ranges between 1 and 16 hours depending on the information requirement.

Needs and Uses: The Fishing Capacity Reduction Demonstration Program is a $2 million demonstration program which seeks to reduce permanently the fishing capacity within the northeast groundfish fishery through the removal of full–time vessels and permits from the multispeciies fishery. Applicants must provide information on vesssel

ownership, catch history, financial information, and a bid for the amount for which Federal fishing permits will be surrendered. NOAA will use the information to select the vessels to be removed. A vessel selected to participate must be scrapped by the owner.

Affected Public: Individuals, businesses or other for–profit organizations.

Frequency: One time.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Don Arbuckle, (202) 482–7340.

Copies of the above information collection proposal can be obtained by calling or writing Gerald Tache, DOC Forms Clearance Officer, (202) 482–3271, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: May 15, 1995

Gerald Tache,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 95–12333 Filed 5–18–95; 8:45 am]

BILLING CODE 3510–CW–F

Foreign-Trade Zones Board

[Docket A(32b1)–7–95]

Foreign-Trade Zone 155—Calhoun County, Texas, Request for Export Manufacturing Authority, ABB Randall Corporation (Gas Plant Modules)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Calhoun-Victoria FTZ, Inc., grantee of FTZ 155, pursuant to § 400.32(b)(1) of the Board's regulations (15 CFR part 400), requesting authority on behalf of ABB Randall Corporation (ABB Randall) to manufacture gas plant modules for export under zone procedures within FTZ 155. It was formally filed on May 8, 1995.

The authority would be used for the fabrication of nine gas plant modules for shipment abroad as part of an overseas plant construction contract involving ABB Randall which will be completed by the end of 1996. Certain components (about 80% of total) would be sourced from abroad, including: flat rolled steel and steel alloy products, steel and steel alloy bars/rods and angles/shapes, reservoirs/vessels/tanks (iron or steel), steel, copper and aluminum wire, steel, copper and aluminum pipe/tubing, pumps, electric power motors and generators, electrical signaling devices, and electrical machines.

Because all of the modules would be exported, zone procedures would exempt ABB Randall from Customs duty payments on the foreign materials.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period of their receipt is June 19, 1995. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to July 3, 1995.

A copy of the application and the accompanying exhibits will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th Street & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: May 12, 1995.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 95–12396 Filed 5–18–95; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–201–802]

Gray Portland Cement and Clinker From Mexico; Final Results Of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: The review period is August 1, 1992, through July 31, 1993. This review covers one manufacturer/exporter, CEMEX, S.A. (CEMEX). On June 3, 1994, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on gray portland cement and clinker from Mexico. We gave interested parties an opportunity to comment.

For our final results, we have determined that CEMEX failed to cooperate with the Department. As a result, we have assigned CEMEX a margin based upon best information available (BIA), in accordance with section 776(c) of the Tariff Act of 1930, as amended (the Act). When a company refuses to cooperate with the Department or otherwise significantly impedes the proceedings, we use as BIA the higher of (a) the highest of the rates found for any firm for the same class or kind of merchandise in the same country of origin in the less-than-fair-value (LTFV) investigation or prior administrative review, or (b) the highest rate found in this review for any firm for the same class or kind of merchandise in the same country of origin. For purposes of the instant review, this margin is the highest rate found for any firm in the LTFV investigation, *i.e.*, CEMEX's margin, as amended pursuant to litigation (61.85 percent). The ''All Others'' rate for this order is 61.35 percent.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT: Robert James or John Kugelman, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 1994, the Department published in the **Federal Register** (59 FR 28844) the preliminary results of its administrative review of the antidumping duty order on gray portland cement and clinker from Mexico (55 FR 35371, August 30, 1990). The Department has now completed this review in accordance with section 751 of the Act.

Scope of Review

The products covered by this review include gray portland cement and clinker. Gray portland cement is a hydraulic cement and the primary component of concrete. Clinker, an intermediate material product produced when manufacturing cement, has no use other than being ground into finished cement. Gray portland cement is currently classifiable under the Harmonized Tariff Schedule (HTS) item number 2523.29, and cement clinker is currently classifiable under HTS item number 2523.10. Gray portland cement has also been entered under HTS item number 2523.90 as ''other hydraulic cements.'' The HTS subheadings are provided for convenience and U.S. Customs Service purposes only. Our written description of the scope remains dispositive.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received written comments from the Ad Hoc Committee of AZ–NM–TX–FL Producers of Gray Portland Cement and the National Cement Company of California (petitioners) and CEMEX on July 5, 1994. We received written rebuttal comments from petitioners and CEMEX on July 11, 1994. On July 18, 1994, we held a public hearing.

Comment 1: CEMEX insists that the Department, in accordance with a July 1992 panel report from the Antidumping Code Committee of the General Agreement on Tariffs and Trade (1947 GATT), must revoke the antidumping duty order *ab initio,* due to what CEMEX contends was the Department's failure to properly establish petitioners' standing in the original LTFV investigation. CEMEX argues that the U.S. statute is silent on the degree of support required to warrant initiation of a LTFV investigation. In cases where the U.S. statute does not specifically address an issue, CEMEX argues, the law must be interpreted in a manner which will not conflict with U.S. obligations under international agreements. According to CEMEX, the Department failed to affirmatively ascertain that the petition, filed on behalf of a regional industry, was supported by ''all or almost all'' of that regional industry. As a result, CEMEX argues, initiation of the LTFV investigation was improper and, thus, the investigation and all subsequent proceedings following from the investigation are void and must be rescinded. Only then, CEMEX maintains, will the actions of the administering authority in the United States (*i.e.*, the Department) be brought into compliance with the findings of the GATT panel report.

Petitioners argue that U.S. courts have established that the provisions of the GATT Antidumping Code cannot be interpreted to supersede domestic law. Citing the Court of Appeals for the Federal Circuit (Federal Circuit) decision in *Suramerica de Aleaciones Laminadas, C.A.* v. *United States*, 966 F.2d 660 (Fed. Cir. 1992) (*Suramerica*), petitioners assert that U.S. law takes precedence over the conclusions of a GATT panel report. The Federal Circuit further held, petitioners maintain, that it is the duty of Congress, and not the courts, to reconcile any conflicts between U.S. law and the GATT Antidumping Code. Petitioners note that, in *Suramerica*, the dispute also centered on the Department's manner of addressing standing in a LTFV investigation. The Federal Circuit, petitioners maintain, ''summarily rejected'' the respondents' request to revoke the order. Further, petitioners argue, the Fifth Circuit Court, in *Mississippi Poultry Association, Inc.* v. *Madigan*, 992 F.2d 1359 (5th Cir. 1993), specifically concluded that the Department's interpretation of standing takes precedence, even if such interpretation ''is virtually certain to create a violation of the GATT.''

Finally, petitioners aver that the GATT panel report is not binding upon the United States, as the panel's conclusions have not been adopted by the GATT Antidumping Code Committee. Petitioners claim that until such time as this report is adopted, the panel report creates no legally binding obligation upon the United States under international agreements.

Department's Position: We agree with petitioners that unadopted GATT panel reports create no obligation upon the United States. In the present case, the Government of the United States has not agreed to the adoption of the GATT panel report regarding Mexican cement and clinker on both legal and procedural grounds, and the Antidumping Code Committee has not, in fact, adopted this report. In the investigations of pure and alloy magnesium from Canada and Norway, respondents also cited an unadopted GATT panel report on seamless stainless steel hollow products from Sweden. This panel report faulted the Department's interpretation of the expression ''on behalf of an industry,'' which is found at section 732(b) of the Act. *See Pure and Alloy Magnesium from Canada: Final Affirmative Determination,* 57 FR 30940 (July 13, 1992), and *Pure and Alloy Magnesium from Norway: Final Negative Determination*, 57 FR 30944 (July 13, 1992). In those cases, the Department rejected any applicability of the unadopted GATT panel report.

We also agree with petitioners that U.S. law, which the Department followed when initiating the LTFV investigation, takes precedence over the GATT Antidumping Code. This position has been supported by the Federal Circuit which concluded that ''the GATT does not trump domestic legislation; if the statutory provisions at issue here are inconsistent with the GATT, it is a matter for Congress and not this court to remedy.'' *Suramerica*, 966 F.2d at 667–668. Rather, as the CIT stated in *Timken Company* v. *United States*, 14 CIT 753 (CIT 1990), ''any guidance the ITA gleans from the [GATT] Code is clearly hortatory and not mandatory.''

Furthermore, the Department has no authority to rescind its initiation of the LTFV investigation. Under sections 514(b) and 516A(c)(1) of the Act, a LTFV determination regarding initiation becomes final and binding unless a court challenge to that determination is timely initiated under 516A. Even if judicial review of a determination is timely sought, the Department's determination continues to control until there is a resulting court decision ''not in harmony with that determination.'' *See* 19 U.S.C. 1516a(c)(1). In this case, no one challenged the Department's determination on standing before the CIT. Therefore, that determination is final and binding on all persons, including the Department.

With respect to the statute's purported ''silence,'' we note that the 1947 GATT, as well as the Agreement on Implementation of Article VI of the GATT (the AD Code), is silent as to the degree of support required for a petition filed in a regional industry case. Likewise, in considering the proper interpretation of the requirement that a petition be filed ''by or on behalf of'' an industry, the AD Code provides no express guidance as to how compliance with this criterion is to be ascertained. Thus, even if the Act is silent on these issues, our interpretation of the statute could not conflict with the AD Code.

We also reject any suggestion that our practice of presuming the support of the domestic industry, absent an affirmative showing to the contrary, conflicts with U.S. law. In fact, numerous decisions by the U.S. Court of International Trade (CIT) have upheld the Department's practice. *See, e.g., Citrosuco Paulista* v. *United States*, 704 F. Supp. 1074 (CIT 1988); *Comeau Seafoods* v. *United States*, 724 F. Supp. 1407 (CIT 1989).

For these reasons, we have concluded that (i) the GATT panel report does not govern the Department's conduct of this administrative review, and (ii) our determination in this regard is in accordance with law.

Comment 2: CEMEX argues that the Department erred in applying BIA in this review, as the data on sales of Types II and V cement, as well as data on constructed value for Types II and V cement submitted by CEMEX, were sufficient for the Department to accurately calculate margins in the instant review. CEMEX claims that the Department's conclusion in its preliminary results that data on sales of Type I cement were ''essential'' to determining if home market sales of Types II and V cement were within the ordinary course of trade (see below) was without foundation and, therefore, did not warrant use of total BIA. CEMEX

contends that the Department's sole basis for applying BIA was CEMEX's refusal to supply the Type I information, and not because the Department had insufficient information to determine whether CEMEX's Type II and Type V sales were made in the ordinary course of trade. CEMEX further maintains that, ''absent a legally sufficient excuse for resorting to comparisons of similar merchandise,'' the Department is required to use sales of identical merchandise as a basis for foreign market value (FMV). In this case, CEMEX argues, use of BIA would only be appropriate if the Department had reviewed the information in the record and found that the sales of identical merchandise were outside the ordinary course of trade. Since, according to CEMEX, it had provided adequate information to support its claim that its sales of identical merchandise were within the ordinary course of trade, the Department should have used those sales. Instead, CEMEX claims, the Department simply disregarded all information on sales of identical merchandise provided by CEMEX and resorted to BIA.

CEMEX insists that its sales of Type II and Type V cement were made in the ordinary course of trade and, thus, are the appropriate sales for comparison purposes. Further, CEMEX maintains that no evidence on the record of the instant review rebuts this contention. CEMEX argues that it provided sufficient data regarding each of the five criteria cited by the Department in support of its conclusion in the second review that CEMEX's Type II and V sales were outside the ordinary course of trade. These factors were summarized as: (a) Shipping arrangements; (b) profitability of sales; (c) marketing reasons, other than profit; (d) volume of sales; and (e) historical sales trends.

Thus, in the instant review, according to CEMEX, the Department had no need for information on home market sales of Type I cement in order to determine that sales of Types II and V were made in the ordinary course of trade. CEMEX maintains the Department never rendered a decision in its ordinary-course-of-trade investigation and, therefore, never demonstrated its need for sales data on Type I cement. CEMEX claims that the administrative burden and cost of submitting sales data on ''similar'' merchandise, *i.e.*, Type I cement, is not justified in this case, since CEMEX was able to supply sufficient data on sales of identical merchandise.

Petitioners suggest, in turn, that CEMEX, through its refusal to supply the requested data on Type I sales, is attempting to ''wrest control'' of this review from the Department by deciding unilaterally what information the Department is entitled to receive. It is not incumbent upon the Department, continue petitioners, to demonstrate to respondents' satisfaction the relevance of any given information sought. Yet, petitioners suggest, this is precisely the standard CEMEX is attempting to impose in this review. Petitioners maintain that CEMEX would turn the Department's administrative review into ''the equivalent of a federal court discovery dispute, where the respondent is free to object to substantial portions of the questionnaire on relevance and other grounds.'' See Petitioners' Rebuttal Brief, July 11, 1994, pages 2 and 8.

Petitioners maintain that the Department had good cause to request Type I sales data, as this information would be vital in conducting an investigation of whether CEMEX's sales of Type II and Type V during the period of review were or were not within the ordinary course of trade. Petitioners argue that full and complete responses to the Department's information requests are necessary; otherwise, petitioners aver, the Department would be forced to operate ''in a vacuum'' in making any ordinary-course-of-trade determination. Finally, petitioners contend that contrary to CEMEX's claims, the record of this review for the 1992–1993 period is not sufficient to demonstrate that CEMEX's Type II and Type V sales were within the ordinary course of trade. Petitioners note that in the 1991–1992 review, the entire ordinary-course-of-trade issue hinged on a comparison of CEMEX's treatment of home market Type II and Type V cement sales with its treatment of home market Type I sales.

Department's Position: We agree with petitioners that it is not incumbent upon the Department to demonstrate to CEMEX's satisfaction the relevance of any given information sought. In the conduct of an administrative review, the Department is routinely confronted with voluminous data and various possible interpretations of these data. It would be impossible to state with complete confidence, at the outset of a proceeding, precisely what information will eventually be deemed relevant in arriving at the final results of a review. This presumes a level of prescience neither the Department nor respondents themselves can legitimately claim. Therefore, the Department must frame its requests for information after considering all the facts at its disposal at the time the information requests are made. At times, subsequent requests for information may be issued as the Department interprets the data that it has received. Generally, however, the statutory and regulatory deadlines of antidumping proceedings often do not allow the Department to use such a staggered approach; this is especially true where the subsequently requested data would be voluminous or itself capable of various reasonable interpretations which might require further clarification.

While the Department is by no means obligated to state the specific reasons for requesting information prior to its submission by a respondent, in the instant review, the Department did, in fact, explicitly state its grounds for insisting on Type I home market sales data. On three separate occasions in this review, we requested the necessary data on Type I cement sales. In our questionnaire, under ''Home Market Sales,'' we asked CEMEX to report ''all sales of the subject merchandise,'' *i.e.*, Types I, II and V cement. *See* the Department's questionnaire, dated October 14, 1993, at pages 10 and 14A, which is on file in the Central Records Unit, Room B–099 of the Main Commerce Building. CEMEX requested clarification of its reporting requirements, which we provided in a letter dated November 29, 1993. We explained that, as we had been unable to use home market sales data on Type II and Type V cement for comparison purposes in the prior review, the Department would require home market Type I sales data in the third review. *See* Letter from Division Director/OADC to CEMEX dated November 29, 1993. Later, in our supplemental questionnaire, we reiterated our need for Type I sales data, stating ''[t]hese sales are relevant to your claims that home market sales of Type II and Type V cement are within the ordinary course of trade.'' *See* Letter from Division Director/OADC to CEMEX dated February 4, 1994, Section V.A.

We also explained at length in a decision memorandum dated April 18, 1994, and then in our preliminary results of review, why information on home market Type I sales was crucial to determining if CEMEX's home market sales of Type II and Type V cement had been made in the ordinary course of trade. *See* Decision memorandum to Joseph A. Spetrini dated April 18, 1994, Use of BIA in the Third Administrative Review; *see also Preliminary Results of Antidumping Duty Administrative Review: Gray Portland Cement and Clinker from Mexico*, 59 FR 28844 (June 3, 1994).

We had previously determined, in the course of the prior review, that

CEMEX's sales of Type II and Type V cement in the home market had been made outside the ordinary course of trade (after comparing these sales to sales of Type I cement); therefore, we were unable to use CEMEX's Type II and Type V sales data for comparison purposes. In the instant review, we requested data on sales of such (Types II and V cement) and similar (Type I) merchandise in order to conduct the same type of analysis that we conducted in the prior review, and to determine whether CEMEX's home market sales of Type II and Type V cement during the instant period of review had been made in the ordinary course of trade. CEMEX refused to comply with the Department's repeated requests for Type I sales data. CEMEX did not suggest that it was unable to provide this information; rather, CEMEX asserted that the information was not relevant, and chose not to comply.

Although CEMEX has argued that it is not required to provide its Type I sales data, it is well established that a respondent does not have the right to direct the Department's investigation. As the CIT concluded in *Ansaldo Componenti, S.p.A.* v. *U.S.*, 628 F. Supp. 198 (CIT 1986), ''[i]t is Commerce, and not the respondent, that determines what information is to be provided for an administrative review.''

Moreover, the unreported Type I sales data are essential to our analysis. As CEMEX notes in its case brief, ''[i]n cases where [the Department] has excluded certain sales for being outside the ordinary course of trade, the administrative record established that the subject sales were either unrepresentative of sales in general, or were made under unusual circumstances *relative to other sales in the home market.*'' *See* CEMEX Case Brief, July 5, 1994 at 5 (emphasis added). Our analysis in the 1991–1992 review used the specific information pertaining to these ''other sales in the home market'' (*i.e.*, sales of Type I) as a basis for comparison to the Type II and V sales in question. In the present case, we are unable to ascertain conclusively whether or not CEMEX's sales of Type II and Type V cement were within the ordinary course of trade precisely because CEMEX denied us the requisite information regarding sales of Type I cement to arrive at such a decision.

The Department's regulations, at § 353.37(a)(1), state that the Department will use BIA whenever the Secretary ''[d]oes not receive a complete, accurate and timely response to the Secretary's request for factual information.'' 19 CFR 353.37(a)(1) (1994). This same section continues by stating that when ''an interested party refuses to provide factual information * * * or otherwise impedes the proceeding, the Secretary may take that into account in determining what is the best information available.'' 19 CFR 353.37(b). As CEMEX refused to submit information essential to our analysis of whether certain sales were made in the ordinary course of trade, CEMEX significantly impeded the conduct of this administrative review. For these reasons, we have assigned CEMEX a first-tier, or uncooperative, BIA margin.

We also disagree with CEMEX's argument that the record evidence of this review establishes that its Type II and Type V cement sales were in the ordinary course of trade. In the 1991–1992 review, after analyzing various data on Type I, Type II and Type V cement, we found, first, that over 95 percent of all cement shipments fell within a radius of 150 miles; CEMEX's shipments of Type II and Type V cements were over far greater distances, and, unlike its sales of other cement products, CEMEX absorbed much of the added freight costs for sales of Types II and V. Second, the profitability of sales of Type II and Type V cement was likewise unusual in that these sales generated lower profits than did home market sales of other types of cement. Third, we also found in the 1991–1992 review that CEMEX's home market sales of Type II and Type V cement had a promotional quality which was lacking in its other cement sales, in that CEMEX's Type II and V home market sales were made in large measure to enhance CEMEX's corporate image. Fourth, Type II and Type V cement accounted for a ''minuscule'' percentage of CEMEX's total cement sales, as these products represent specialty cements sold to a ''niche'' market. Finally, with regard to historical sales trends, we found that CEMEX did not market Type II and Type V cement in the home market, despite the existence of a small domestic demand, until it began production for export to the United States (circa mid-1980s).

When viewed in their totality, these facts led the Department to conclude that CEMEX's home market sales of Types II and V cement during the 1991–1992 review period had been made outside the ordinary course of trade. *See* Decision memorandum to Joseph A. Spetrini, dated April 18, 1994; *see also,* Memorandum from Holly A. Kuga to Joseph A. Spetrini, August 31, 1993, a public version of which is on file in Room B–099 of the Main Commerce Building. This determination was recently upheld by the CIT in a decision issued on April 24, 1995. *CEMEX, S.A.* v. *United States,* Slip Op. 95–72 at 14 (CIT 1995) (*CEMEX*).

In the present review, CEMEX argues that the existence of a home market demand for Types II and V cement, irrespective of CEMEX's business practices, indicates that CEMEX's sales were within the ordinary course of trade. *See, e.g.,* CEMEX Case Brief at 12 through 13. Therefore, CEMEX concludes, most of the factors that the Department analyzed on the ordinary-course-of trade issue in the 1991–1992 review are not relevant or probative.

However, CEMEX proceeds to address each of these five factors. While CEMEX admits that sales profitability is unusually low for its Type II and Type V sales, it dismisses the relevance of this factor when considered in isolation. CEMEX also maintains that relative sales volume alone should not be determinative as to whether or not sales are within the ordinary course of trade. *See* Supplemental Questionnaire Response, February 28, 1994 (Supplemental Response) at 12 through 13. In addition, CEMEX contends that in this analysis, the Department should examine differences in terms of sale, not shipping distances. The sole change from the 1991–1992 review that CEMEX claims is that it now ''bears *all* transportation costs on c.i.f. delivered sales'' in the home market, whereas in the 1991–1992 review, these costs were fully absorbed on sales of Type II and Type V cement, and partially passed on to the customer on Type I sales. *See* Supplemental Response at 8 (original emphasis).

We remain unconvinced that the mere existence of a home market demand for Types II and V cement, in and of itself, demonstrates that CEMEX's sales of these products were within the ordinary course of trade. Despite its ninety-year history of cement sales in Mexico, CEMEX made no attempt to address this specialty cement demand until the mid-1980's when it began producing Types II and V cement for export. Further, in any examination involving ordinary-course-of-trade issues, as the CIT recently stated in the *CEMEX* case, ''[d]etermining whether home market sales are in the ordinary course of trade requires evaluating not just 'one factor taken in isolation but rather * * * all the circumstances particular to the sales in question.''' Slip Op. 95–72 at 6 (quoting *Murata Mfg. Co.* v. *United States,* 820 F. Supp. 603, 607 (CIT 1993). Our decision in this case, therefore, turns on the totality of circumstances relating to the Type II and V sales in question and the fact that CEMEX withheld the information

necessary to evaluate fully whether those sales are outside the ordinary course of trade.

Contrary to CEMEX's assertion regarding the irrelevance of the factors cited by the Department in the 1991–1992 review, we note that an examination of these factors supports the conclusion that CEMEX's home market sales of these specialty products ''were made under unusual circumstances relative to other sales in the home market.'' The evidence available to the Department regarding CEMEX's sales of Types II and V cement suggests that the circumstances which prevailed at the time of the Department's decision in the 1991–1992 review still obtain.

In particular, CEMEX continues to sell ''minuscule'' quantities of these specialty cement products compared to its total production of all cement products. CEMEX realizes a low profit on these sales. CEMEX also concedes the promotional nature of its Type II and Type V sales, stating that its sales of Type II and Type V cement are made in the hope that customers ''may decide to source all their cement needs * * * from the same company that sources their specialty cement needs.'' *See* Supplemental Response at 12. In addition, CEMEX continues to ship these ''niche'' products over great distances, incurring high freight expenses. CEMEX's contention that it now absorbs all freight expenses on delivered sales does not alter the Department's conclusions with respect to this issue. The fact that CEMEX incurs high freight costs for Types II and V cement is evidence of the aberrational quality of CEMEX's home market sales of these products. Finally, it should be noted that the factors relied upon by the Department in this review were upheld by the CIT in the *CEMEX* case, which concerned the final results of the second administrative review. Slip Op. 95–72 at 6–14.

The available evidence appears to support the conclusion that sales of Types II and V cement in the home market are aberrational, as noted above. However, the Department has not been able to reach a definitive conclusion on this point due to respondent's failure to supply the requested information on home market Type I sales, which is vital to determining whether any of these factors have changed. Absent some benchmark (i.e., home market sales of similar merchandise, such as Type I cement) against which to measure the Type II and Type V sales in question, the Department is unable to determine whether Type II and Type V sales in this review period were made within the ordinary course of trade. Therefore, as CEMEX's actions prevented the Department from making this determination, our resort to BIA is justified.

Further, even if the Department had been able, using the information supplied by CEMEX in this review, to determine that the Types II and V cement sales were outside the ordinary course of trade, we would still have needed the Type I data to conduct our antidumping duty analysis. This is another reason why CEMEX's failure to report these data supports the Department's conclusion that it needed to use adverse BIA in this case.

Comment 3: Petitioners insist that in the event the Department reverses its preliminary BIA decision altogether, and opts to use CEMEX's submissions of Type II and Type V sales data, the Department must follow the decision of the Federal Circuit in *Ad Hoc Committee of AZ-NM-TX-FL Producers* v. *United States*, 13 F.3d 398 (Fed. Cir. 1994), and treat pre-sale home market transportation costs as indirect expenses in calculating FMV.

Department's Position: As we have not reversed our preliminary decision with regard to BIA, the treatment of pre-sale home market transportation costs is not at issue in this review.

Comment 4: Petitioners contend that the Department's application in the present review of its ''two-tier'' system of BIA, set forth in *Antifriction Bearings And Parts Thereof from France, et al.*, 57 FR 28360 (June 24, 1992), is misguided. Petitioners insist that use of first-tier BIA, reserved for those respondents deemed by the Department to have substantially impeded a proceeding, will result in CEMEX receiving a lower margin than would be the case had CEMEX fully cooperated in the instant review by providing the data requested on home market sales of Type I cement. Rather, petitioners continue, the Department must choose as BIA a rate which will (a) induce a non-cooperative respondent to provide complete and timely responses in any future proceeding; and (b) not leave a respondent ''in a better position, as a result of its noncompliance, than it would have had it provided the Department with complete, accurate and timely data.'' Petitioners' Case Brief, July 5, 1994, at 3 and 4, quoting *Silicon Metal from Argentina; Final Results of Administrative Review*, 58 FR 65336 (December 14, 1993). Petitioners argue that the Department is not required to ''blindly'' follow its two-tier methodology; the selection of BIA ''is made on a case-by-case basis.'' Petitioners' Case Brief at 3, citing *Silicon Metal from Argentina, and Cold-Rolled Stainless Steel Sheet from Germany; Final Results of Administrative Review*, 59 FR 15888 (April 5, 1994), *aff'd Krupp Stahl, A.G.* v. *United States*, 822 F. Supp. 789 (CIT 1993). Petitioners suggest that use of first-tier, or non-cooperative, BIA would, in effect, ''reward'' CEMEX for obstructing the present administrative review. Petitioners suggest that CEMEX calculated its margin using its Type I sales data, and compared this margin to its non-cooperative BIA margin. According to petitioners, CEMEX then made a deliberate and rational decision not to comply with the Department's requests for information, as this information would result in a margin substantially higher than its preliminary BIA rate of 60.33 percent (CEMEX's rate in the original LTFV investigation, as amended pursuant to litigation). In an effort to support this claim, petitioners use selective data on sales of Types II and V cement taken from CEMEX's questionnaire responses submitted in the instant review to arrive at a margin higher than the Department's preliminary BIA rate. See Petitioners' Case Brief, July 5, 1994 at 4, 5 and Appendix 2.

Petitioners offer three alternatives to the Department's first-tier BIA for determining CEMEX's margin in these final results. First, citing *Silicon Metal from Argentina*, 58 FR 65338 (December 14, 1993), and the *Krupp Stahl* case, petitioners urge the Department to use as BIA the highest margin from the petition, which they claim would be 111 percent. The resulting higher margin, argue petitioners, would have the added effect of inducing CEMEX to fully comply in future administrative reviews.

As a second alternative, petitioners suggest basing FMV on information obtained from a CEMEX press release, submitted by petitioners, regarding average 1992 and 1993 sales prices. United States price (USP) would be based on CEMEX's questionnaire response and subsequent submissions on the record of the present review for its sales of Type II and Type V cement in the United States.

As a final alternative, petitioners suggest that the BIA rate should be the highest rate calculated on remand from the original investigation, or the first or second administrative reviews. Petitioners aver that the Department, in its final results of redetermination in the second remand of the LTFV investigation in *Ad Hoc Committee* v. *U.S.*, Court No. 90–10–00508, filed on May 12, 1994, established a rate of 61.85 percent for CEMEX as its margin in the

original investigation. This rate, petitioners insist, should be selected as BIA in the instant review, should the Department reject either of petitioners' first two alternatives. Petitioners further contend that should the Department, pursuant to a remand in either the first or second administrative reviews, establish a rate higher than the 61.85 percent rate on remand in the LTFV investigation, this higher rate should then supersede the rate from the investigation.

CEMEX counters that there is no basis for the Department to depart from its standard two-tier methodology in selecting BIA. CEMEX notes that this two-tier methodology has been approved by the Federal Circuit in *Allied-Signal Company v. United States,* 996 F.2d 1185 (Fed. Cir. 1993). CEMEX contends that the two cases cited by petitioners as precedent for using a more ''punitive'' BIA rate are not analogous to the instant review, as in both prior cases, the highest rates would have resulted in little or no change in the margins of the non-cooperative respondents. Further, argues CEMEX, the Department in a more recent case elected *not* to depart from its two-tier methodology. *See Iron Construction Castings from Canada; Final Results of Administrative Review,* 59 FR 25603 (May 17, 1994). In that case, CEMEX maintains, first-tier BIA would result in a significant increase over any individual rate then in effect, and the Department correctly decided that the first-tier BIA rate ''is adverse and will achieve the objective of encouraging complete responses in future reviews.'' Id. at 25605. CEMEX maintains that a similar situation obtains in the instant review.

Department's Position: We disagree, in part, with petitioners. We do not believe that the revised BIA margin of 61.85 percent is insufficient to induce cooperation in a future proceeding. We do not see how such a markedly adverse change in CEMEX's margin—from a margin of 42.74 percent (the rate calculated in the second review) to 61.85 percent—would constitute ''rewarding'' a non-compliant respondent.

We also agree with CEMEX that the parallels to the *Silicon Metal* and *Krupp Stahl* cases may be overdrawn. In both cases, first-tier BIA would have resulted in the uncooperative respondent receiving precisely the same margin then in effect for that company. In *Silicon Metal,* the Department resorted to constructed value based, in part, on data submitted by petitioners as first-tier BIA. In *Krupp Stahl,* the Department chose a higher margin from the preliminary LTFV determination for its BIA rate. The final results in the latter case were upheld by the CIT. In the instant review, we note that CEMEX's margin would not revert to the same margin previously in effect, but would increase substantially.

For these reasons, we see no grounds for departing from our established first-tier BIA methodology of selecting the highest margin found for any firm either in the LTFV investigation or in a subsequent review.

As the Department has not altered its decision to apply first-tier BIA in this case, the alternative choices for BIA posited by petitioners must be rejected.

Comment 5: Petitioners argue that the Department should have completed its investigation of sales below the cost of production, which it initiated on February 4, 1994. Petitioners suggest that when the Department preliminarily determined to apply BIA, the sales-below-cost investigation was merely dropped. Petitioners also fault the Department for failing to conduct a ''fictitious market'' investigation based on petitioners' March 30, 1994 request.

Department's Position: Since the Department has applied total BIA to CEMEX, there is no need for the Department to expend the time and analytical resources necessary to complete a cost investigation which will not be used in calculating CEMEX's margin. Likewise, an examination of petitioners' fictitious market allegation is no longer justified, as the Department has decided to use total BIA.

Comment 6: Petitioners suggest that the Department should change the ''All Others'' rate in this third review to reflect the Department's results of redetermination on the second remand resulting from *Ad Hoc Committee* v. *U.S.,* Court No. 90–10–00508. The Department filed its redetermination results on May 12, 1994. Petitioners note that the ''All Others'' rate increased from 59.91 percent to 61.35 percent; this new rate, petitioners maintain, should be put in place with the final results for this third review.

Department's Position: The Department will adjust the ''All Others'' rate to reflect the CIT's affirmation of our remand redetermination in the LTFV investigation (*Ad Hoc Committee of AZ-TX-NM-FL Producers of Gray Portland Cement* v. *United States,* Slip Op. 94–152 (CIT September 26, 1994)). Therefore, effective with the date of publication of these final results, the ''All Others'' rate will be 61.35 percent.

Final Results of Review

As a result of our review, we determine the weighted-average dumping margin for CEMEX, S.A. for the period August 1, 1992, through July 31, 1993, to be 61.85 percent. The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate listed above; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will be 61.35 percent. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: May 12, 1995.

Paul L. Joffe,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 95–12395 Filed 5–18–95; 8:45 am]

BILLING CODE 3510–DS–P

Notice of Scope Rulings

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Scope Rulings and Anticircumvention Inquiries.

SUMMARY: The Department of Commerce (the Department) hereby publishes a list of scope rulings and anticircumvention inquiries completed between January 1, 1995, and March 31, 1995. In conjunction with this list, the Department is also publishing a list of pending requests for scope clarifications and anticircumvention inquiries. The Department intends to publish future lists within 30 days of the end of each quarter.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT: Ronald M. Trentham, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 482–3931.

Background

The Department's regulations (19 CFR 353.29(d)(8) and 355.29(d)(8)) provide that on a quarterly basis the Secretary will publish in the **Federal Register** a list of scope rulings completed within the last three months.

This notice lists scope rulings and anticircumvention inquiries completed between January 1, 1995, and March 31, 1995, and pending scope clarification and anticircumvention inquiry requests. The Department intends to publish in July 1995 a notice of scope rulings and anticircumvention inquiries completed between April 1, 1995, and June 30, 1995, as well as pending scope clarification and anticircumvention inquiry requests.

The following lists provide the country, case reference number, requester(s), and a brief description of either the ruling or product subject to the request.

I. Scope Rulings Completed Between January 1, 1995, and March 31, 1995

Country: Canada

A–201–805 *Steel Jacks from Canada*

Seeburn, a division of Ventra Group, Inc.—Seeburn's automobile tire jacks are outside the scope of the finding. 2/3/95.

Country: People's Republic of China

A–570–504 *Petroleum Wax Candles*

Two's Company—Red and gold angel taper candle is outside the scope of the order. Decorated pillar candles are within the scope of the order. 1/13/95.

Springwater Cookie and Confections—Feather twist candles are within the scope of the order. 2/14/95.

Watkins Inc.— Holiday pillar candles are within the scope of the order. 2/14/95.

A–570–001 *Potassium Permanganate*

Aerostat Inc.—Plastic ignitor spheres are outside the scope of the order. 1/13/95

Country: Japan

A–588–405 *Cellular Mobile Telephones and Subassemblies*

JRC International—Model PTR–829 portable cellular telephone is outside the scope of the order. 1/3/95.

JRC International—Model PTR–870 portable cellular telephone is outside the scope of the order. 1/3/95.

NEC Corporation and NEC America, Inc.—Models MP5A1D1 and MP5A1D2 portable cellular telephones are outside the scope of the order. 1/3/95.

Matsushita Communication Industrial Corporation of America—Panasonic models EB–3560 and EB–3561 portable cellular telephones are outside the scope of the order. 1/3/95.

A–588–014 *Tuners*

Fujitsu Ten Corporation of America—Fujitsu's ETV front ends are outside the scope of the finding. 1/20/95.

Alpine Electronics—Tuning element printed circuit boards (PCBs) are outside the scope of the finding. 2/3/95.

A–588–604 *Tapered Roller Bearings and Parts Thereof*

Koyo Seiko—Certain forgings are within the scope of the order. 2/2/95.

II. Anticircumvention Rulings Completed Between January 1, 1995, and March 31, 1995

Country: Mexico

A–201–806 *Steel Wire Rope*

Committee of Domestic Steel Wire and Specialty Cable Manufacturers—Affirmative determination of circumvention of the order by importing steel wire strand into the United States where it is wound into steel wire rope. 2/28/95.

III. Scope Inquiries Terminated Between January 1, 1995 and March 31, 1995

Country: India

A–533–809 *Forged Stainless Steel Flanges from India*

Improved Piping Products, Inc.—Clarification to determine whether ''convoluted'' flanges are within the scope of the order. Scope inquiry terminated on 1/31/95.

Country: Japan

A–588–804 *Cylindrical Roller Bearings*

Aerodyne Dallas—Clarification to determine whether outer races and balls, produced in the United States and assembled in Japan after the machining process, are within the scope of the order. Scope inquiry terminated on 2/22/95.

A–588–028 *Roller Chain, Other than Bicycle*

Allied-Apical Co.—Clarification to determine whether a specified replacement part for a tenter is within the scope of the finding. Scope inquiry terminated on 2/3/95.

Iwatani International Corporation of America—Clarification to determine whether certain chain imported by Iwatani is within the scope of the finding. Scope inquiry terminated at Iwatani's request on 2/17/95.

IV. Anticircumvention Inquiries Terminated Between January 1, 1995 and March 31, 1995

None.

V. Pending Scope Clarification Requests as of March 31, 1995

Country: Canada

A–122–823 *Certain Cut-to-Length Carbon Steel Plate*

Sidbec-Dosco Inc., and Canberra Industries—Clarification to determine whether hot-rolled carbon steel plate is within the scope of the order.

A–122–006 *Steel Jacks from Canada*

Whiting Equipment Canada Inc.—Clarification to determine whether Whiting's rail vehicle electric jacks are outside the scope of the finding.

Country: Mexico

A–201–805 *Circular Welded Non-Alloy Steel Pipe*

Allied Tube & Conduit Corp., American Tube Co., Century Tube

Corp., CSI Tubular Productions, Inc., Laclede Steel Co., LTV Tubular Productions Co., Sawhill Tubular Division, Sharon Tube Co., Tex-Tube Division, Western Tube & Conduit Corp., Wheatland Tube Co.—Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A–53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.

Tubacero International Corporation—Clarification to determine whether circular welded carbon steel piping, 16 inches in outside diameter with 3/8 inch wall thickness, for use in extremely heavy load bearing applications, is within the scope of the order.

A–201–802 *Gray Portland Cement and Cement Clinker*

Cementos de Chihuahua S.A. de C.V. and Mexcement, Inc.—Clarification to determine whether masonry cement is within the scope of the order.

Country: Brazil

A–351–809 *Circular Welded Non-Alloy Steel Pipe*

Allied Tube & Conduit Corp., American Tube Co., Century Tube Corp., CSI Tubular Productions, Inc., Laclede Steel Co., LTV Tubular Productions Co., Sawhill Tubular Division, Sharon Tube Co., Tex-Tube Division, Western Tube & Conduit Corp., Wheatland Tube Co.—Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A–53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.

A–351–503 *Iron Construction Castings*

C–351–504 Southland Marketing—Clarification to determine whether certain cast iron grates and frames are within the scope of the order.

Country: France

A–427–078 *Sugar*

Boiron-Borneman, Inc.—Clarification to determine whether manufactured homepathic sugar pellets are within the scope of the finding.

Country: Italy

A–475–401 *Certain Brass Fire Protection Products*

Giacomini, S.p.A.—Clarification to determine whether pressure control (or regulating valves), Models A201, A202, A203, and A204 and leader line siamese (Model A99) are within the scope of the order.

Country: Turkey

A–489–501 *Welded Carbon Steel Standard Pipe and Tube Products*

Allied Tube and Conduit Corporation, Wheatland Tube Company, Laclede Steel Company, Sharon Tube Company, and Sawhill Tubular Division of Armco, Inc.—Clarification to determine whether pipe and tube which meet the order's physical specifications, when intended for or actually used as standard pipe and tube, is included within the scope of the order.

Country: People's Republic of China

A–570–504 *Petroleum Wax Candles*

KMart Corporation—Clarification to determine whether novelty pillar Halloween and novelty pillar Christmas candles are within the scope of the order.

Concept Marketing—Clarification to determine whether Concept's Safe-2–Lite candle is within the scope of the order.

Boomster Imports Inc.—Clarification to determine whether Boomster's three-inch cube candles are within the scope of the order.

Sun It Corporation (Sun)—Clarification to determine whether Sun candles, model 271ND (Flag Lites), model 259NDA (Porch Torch) and model 281N (Gigantic fruit), are within the scope of the order.

Mervyn's—Clarification to determine whether article no. 20172 in the shape of a cube is within the scope of the order.

A–570–502 *Iron Construction Castings*

Jack's International—Clarification to determine whether certain cast iron area drains are within the scope of the order.

A–570–804 *Sparklers*

Fritz Companies Inc.—Clarification to determine whether 14 inch Morning Glorys are within the scope of the order.

A–570–808 *Chrome-Plated Lug Nuts*

Consolidated International Automotive, Inc.—Clarification to determine whether certain nickel-plated lug nuts are within the scope of the order.

Country: Korea

A–580–809 *Circular Welded Non-Alloy Steel Pipe*

Allied Tube & Conduit Corp., American Tube Co., Century Tube Corp., CSI Tubular Productions, Inc., Laclede Steel Co., LTV Tubular Productions Co., Sawhill Tubular Division, Sharon Tube Co., Tex-Tube Division, Western Tube & Conduit Corp., Wheatland Tube Co.—Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A–53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.

A–580–811 *Steel Wire Rope*

TSK Korea and Hi-Lex Corp.—Clarification to determine whether certain motion control cables are within the scope of the order.

A–580–812 *Dynamic Random Access Memory Semiconductors of One Megabit and above (DRAMs)*

Kingston Technology Corporation—Clarification to determine whether certain single in-line memory and other boards manufactured in the United States from DRAMs produced in Korea, and reimported into the United States as defective products or as inventory rotation are within the scope of the order.

Country: Japan

A–588–802 *3½″ Microdisks*

TDK Inc., TDK Electronics Co.—Clarification to determine whether certain web roll media are within the scope of the order.

A–588–804 *Antifriction Bearings (Other Than Tapered Roller Bearings), and Parts Thereof*

Dana Corporation—Clarification to determine whether an automotive component known variously as a center bracket assembly, center bearing assembly, support bracket, or shaft support bearing, is within the scope of the order.

Nakanishi Manufacturing Corp.—Clarification to determine whether a stamped steel washer with a zinc phosphate and adhesive coating which is used in the manufacture of a ball bearing seal is within the scope of the order.

A–588–405 *Cellular Mobile Telephones and Subassemblies*

TDK Corporation of America—Clarification to determine whether

Duplexers, Voltage Control Oscillators, and Isolators are within the scope of the order.

Fujitsu Ltd., Fujitsu America, Inc., and Fujitsu Network Transmission Systems, Inc.—Clarification to determine whether models F80P–173, 3625 and 3635 portable cellular telephones are within the scope of the order.

A–588–823 *Professional Electric Cutting Tools*

Makita Inc., Makita U.S.A.—Clarification to determine whether Planer-Jointer model 2030SC is within the scope of the order.

Makita Inc., Makita U.S.A.—Clarification to determine whether Chain Morticer model 7104L is within the scope of the order.

A–588–055 *Acrylic Sheet*

Sumitomo Chemical America, Inc.—Clarification to determine whether acrylic sheet with light scattering properties is within the scope of the finding.

A–588–809 *Small Business Telephone Systems and Subassemblies and Parts Thereof*

Iwatsu America, Inc. and Iwatsu Electric Co.—Clarification to determine whether certain circuit cards are within the scope of the order.

Country: Venezuela

A–307–805 *Circular Welded Non-Alloy Steel Pipe*

Self-initiation. Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A–53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.

Country: Argentina

C–357–803 *Leather*

Petitioners—Clarification to determine whether upper bovine leather without hair on, not whole, prepared after tanning is within the scope of the countervailing duty order. Affirmative preliminary scope ruling issued on January 27, 1995.

Country: Sweden

A–401–040 *Stainless Steel Plate*

Armco, Inc., G.O. Carlson, Allegheny Ludlum Corp., and Washington Steel Corp.—Clarification to determine whether Stavax, Ramax, and 904L are within the scope of the finding. Affirmative preliminary scope ruling issued on November 16, 1994.

Country: Germany

A–428–801 *Antifriction Bearings (other than Tapered Roller Bearings) and Parts Thereof*

Consolidated Saw Mill International (CSMI) Inc.—Clarification to determine whether certain Cambio bearings contained in its sawmill debarker are within the scope of the order. Affirmative preliminary ruling issued on December 16, 1994.

Marquart Switches—Clarification to determine whether certain steel balls are within the scope of the order.

Country: Taiwan

A–583–810 *Chrome-Plated Lug Nuts*

Consolidated International Automotive, Inc.—Clarification to determine whether certain nickel-plated lug nuts are within the scope of the order.

A–583–603 *Stainless Steel Cookware*

Max Burton Enterprises, Inc.—Clarification to determine whether the Max Burton StoveTop Smoker is within the scope of the order.

Sheason Co., Inc.—Clarification to determine whether the ''Momy Bear Auto Cooker'' is within the scope of the order.

A–583–508 *Porcelain-on-Steel Cookware*

Blair Corp.—Clarification to determine whether product number 271911, eight-quart stock pot and product number 271921, twelve-quart stock pot are within the scope of the order.

Blair Corp.—Clarification to determine whether product number 1001, seven piece cookware set is within the scope of the order.

A–583–816 *Certain Stainless Steel Butt-Weld Pipe Fittings*

Top Line Process Equipment Corporation—Clarification to determine whether various stainless steel tube fittings with non-welded end-connections, and other products, are within the scope of the order.

VI. Pending Anticircumvention Inquiry Requests as of December 31, 1994

Country: Japan

A–588–602 *Carbon Steel Butt-Weld Pipe Fittings*

U.S. Fittings Group—Anticircumvention inquiry to determine whether a producer of carbon steel butt-weld pipe fittings in Japan is circumventing the antidumping duty order by shipping parts to Thailand for processing and importing the finished product into the United States.

Country: Germany

A–428–811 *Hot-Rolled Lead and Bismuth Carbon Steel Products*

Inland Steel Bar Company and USS Kolbe Steel Company—Anticircumvention inquiry to determine whether a producer of steel in Germany is circumventing the antidumping duty order by shipping leaded steel billets to its wholly-owned subsidiary in the Netherlands, hot-rolling the billets into bars and rods, and then exporting them to the United States.

Interested parties are invited to comment on the accuracy of the list of pending scope clarification requests. Any comments should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

Dated: May 10, 1995.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 95–12394 Filed 5–18–95; 8:45 am]

BILLING CODE 3510–DS–P

Minority Business Development Agency

Business Development Center Applications: Brooklyn, New York

AGENCY: Minority Business Development Agency.

ACTION: Amendment.

SUMMARY: On page 24839, in the issue dated Wednesday, May 10, 1995, solicitation to operate the Brooklyn Minority Business Development Center is amended to include: PRE-AWARD CONFERENCE: June 2, 1995, at 10:00 a.m., at 26 Federal Plaza, Room 3305, New York, New York.

FOR FURTHER INFORMATION AND AN APPLICATION PACKAGE, CONTACT: Heyward Davenport, Regional Director at (212) 264–3262.

The closing date for applications is June 19, 1995.

Proper identification is required for entrance into any Federal building.

11.800 Minority Business Development Center
(Catalog of Federal Domestic Assistance)

May 15, 1995.

Frances B. Douglas,

Alternate Federal Register Liaison Officer, Minority Business Development Agency.

[FR Doc. 95–12334 Filed 5–18–95; 8:45 am]

BILLING CODE 3510–21–M

National Oceanic and Atmospheric Administration

[I.D. 042095D]

South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of change of public meeting date.

SUMMARY: The date for the meeting of the South Atlantic Fishery Management Council's (Council) Rock Shrimp Ad-Hoc Advisory Panel (AP) meeting has changed.

FOR FURTHER INFORMATION CONTACT: Sharon Coste, South Atlantic Fishery Management Council; One Southpark Circle, Suite 306; Charleston, SC 29407–4699; telephone: (803) 571–4366; fax: (803) 769–4520.

SUPPLEMENTARY INFORMATION: The Council's Rock Shrimp Ad-Hoc AP meeting, originally scheduled for June 1 and 2, and published May 5, 1995 (60 FR 22051), has been changed to June 2, 1995, from 8:30 a.m. until 1:00 p.m., at the same location.

All other information as printed in the previous publication remains unchanged.

Dated: May 15, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–12389 Filed 5–18–95; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 051295A]

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold a joint meeting of its Crustaceans Plan Team, the Hawaiian members of its Crustaceans Advisory Panel, and representatives of the lobster industry, on June 28–29, 1995, from 8:00 a.m. to 5:00 p.m. each day.

ADDRESSES: Council address: Western Pacific Fishery Management Council; 1164 Bishop Street, Suite 1405; Honolulu, HI 96813.

The meeting will be held in Room 306 of the Executive Centre, 1088 Bishop Street, Honolulu, HI.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: The group will discuss and may make recommendations to the Council on the following agenda items:

1. 1995 Northwestern Hawaiian Islands (NWHI) quota and experimental fishing permit(s);
2. Status of NWHI lobster stocks;
3. Lobster management review - summary of meeting held in October 1994;
4. Alternative management program for NWHI lobster fishery; a. Quota setting procedures

b. Minimum size and discard mortality

c. Individual fishermen's quotas

5. Other business.

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to the meeting date.

Dated: May 15, 1995.

Richard W. Surdi,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–12390 Filed 5–18–95; 8:45 am]

BILLING CODE 3510–22–F

National Institute of Standards and Technology

Announcing a Meeting of Computer System Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the Computer System Security and Privacy Advisory Board will meet Wednesday, June 7, and Thursday, June 8, 1995, from 9:00 a.m. to 5:00 p.m. The Advisory Board was established by the Computer Security Act of 1987 (P.L. 100–235) to advise the Secretary of Commerce and the Director of NIST on security and privacy issues pertaining to Federal computer systems. All sessions will be open to the public.

DATES: The meeting will be held on June 7 and 8, 1995, from 9:00 a.m. to 5:00 p.m.

ADDRESSES: The meeting will take place at National Institute of Standards and Technology, Clopper Road and Quince Orchard Road, Gaithersburg, MD 20899.

AGENDA:

—Welcome and Update
—Overview of Meeting
—Perspectives on Information Security
—Privacy Issues Update
—Common Criteria Update
—GITS Security Status
—Draft OMB Appendix III Update
—Security Policy Board Update
—PKI Steering Committee Activities
—SI–PMO Action Plan Briefing
—Public Participation
—Pending Board Business
—Close.

PUBLIC PARTICIPATION: The Board agenda will include a period of time, not to exceed thirty minutes, for oral comments and questions from the public. Each speaker will be limited to five minutes. Members of the public who are interested in speaking are asked to contact the Board Secretariat at the telephone number indicated below. In addition, written statements are invited and may be submitted to the Board at any time. Written statements should be directed to the Computer Systems Laboratory, Building 225, Room B154, National Institute of Standards and Technology, Gaithersburg, MD 20899. It would be appreciated if fifteen copies of written material could be submitted for distribution to the Board by June 2, 1995. Approximately 20 seats will be available of the public and media.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Roback, Board Secretariat, Computer Systems Laboratory, National Institute of Standards and Technology, Building 225, Room B154, Gaithersburg, MD 20899, telephone: (301) 975–3240.

Dated: May 15, 1995.

Raymond G. Kammer,

Deputy Director.

[FR Doc. 95–12375 Filed 5–18–95; 8:45 am]

BILLING CODE 3510–CN–M

Judges Panel of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will

be a closed meeting of the Judges Panel of the Malcolm Baldrige National Quality Award on Thursday, June 15, 1995. The Judges Panel is composed of nine members prominent in the field of quality management and appointed by the Secretary of Commerce. The purpose of this meeting is to begin the review process of the 1995 Award applicants' data and selection of applicants for consensus. The applications under review contain trade secrets and proprietary commercial information submitted to the Government in confidence.

DATES: The meeting will convene June 15, 1995, at 8:30 a.m. and adjourn at 4 p.m. on June 15, 1995. The entire meeting will be closed.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Curt W. Reimann, Director for Quality Programs, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2036.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on March 3, 1994, that the meeting of the Panel of Judges will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94–409. The meeting, which involves examination of records and discussion of Award applicant data, may be closed to the public in accordance with Section 552b(c)(4) of Title 5, United States Code, since the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Dated: May 12, 1995.

Samuel Kramer,

Associate Director.

[FR Doc. 95–12376 Filed 5–18–95; 8:45 am]

BILLING CODE 3510–13–M

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the Procurement List.

SUMMARY: This action adds to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: June 19, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On March 17, 1995, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (60 F.R. 14427) of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service, fair market price, and impact of the addition on the current or most recent contractors, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Accordingly, the following service is hereby added to the Procurement List: Recycling Service, Naval Surface Warfare Center, Crane, Indiana.

This action does not affect current contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–12356 Filed 5–18–95; 8:45 am]

BILLING CODE 6820–33–P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 19, 1995.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Administrative Services for the following locations:
Fleet and Industrial Supply Center, San Diego, California
Fleet and Industrial Supply Center, Long Beach, California
NPA: Gateway Sheltered Industries, San Diego, California
Janitorial/Custodial for the following locations:
Federal Building, 525 Water Street, Port Huron, Michigan
Social Security Administration Building, 142 Auburn Street, Pontiac, Michigan
NPA: New Horizons of Oakland County, Inc. Pontiac, Michigan.

Beverly L. Milkman,

Executive Director.

[FR Doc. 95–12357 Filed 5–18–95; 8:45 am]

BILLING CODE 6820–33–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title: Evaluation of the Department of Defense/Department of Education Career Academies
Type of Request: New collection
Number of Respondents: 1,691
Responses per Respondent: 1.71
Annual Responses: 2,891
Average Burden per Response: .475 hours
Annual Burden Hours: 1,373
Needs and Uses: In March 1993, the Junior Reserve Officers Training Corps (JROTC) Career Academy Program was established for at-risk students, as part of the President's Defense Reinvestment and Conversion Initiative. The information collected hereby, will be utilized to evaluate the effectiveness of this new program. It will examine the academies' impact on student behavior and attitude toward school, as well as work/vocational training, using data in school records and annual student surveys. This collection will provide vital information with which to determine the efficacy and merit of the JROTC Career Academy Program, an important part of the Department of Defense Civil-Military Cooperative Action Program established in accordance with Public Law 102–484.
Affected Public: Individuals or households; State or local governments; small businesses or organizations
Frequency: Annually
Respondent's Obligation: Voluntary
OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: May 15, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–12352 Filed 5–18–95; 8:45 am]

BILLING CODE 5000–04–P

Defense Base Closure and Realignment Commission Investigative Hearings Schedule

AGENCY: Defense Base Closure and Realignment Commission (a Presidentially appointed commission *separate from and independent of DoD*).

ACTION: Notice of additional regional investigative hearings.

SUMMARY: Pursuant to Public Law 101–510, as amended, the Defense Base Closure and Realignment Commission announces an additional series of regional investigative hearings to be held throughout the United States. The purpose of these hearings is for the Commission to receive testimony from communities hosting military installations that the Commission added on May 10, 1995, for consideration as potential candidates for closure or realignment. The regional hearing dates, cities, and associated defense activities follow:

May 25 (Location: San Francisco, CA)

Regional hearing for testimony regarding the following installations:
Supervisor of Shipbuilding, Conversion, and Repair, San Francisco, CA
Engineering Field Activity West, Naval Facilities Command, San Bruno, CA
McClellan Air Force Base, CA
Oakland Army Base, CA
Fleet and Industrial Supply Center, Oakland, CA
NAWC, Point Mugu, CA
Naval Warfare Assessment Detachment, Corona, CA
Hill Air Force Base, UT
Public Works Center, Guam

May 31 (Location: Chicago, IL)

Regional hearing for testimony regarding the following installations:
Grand Forks Air Force Base, ND
Minneapolis-Saint Paul International Airport, Air Reserve Station, MN
Chicago-O'Hare International Airport, Air Reserve Station, IL
Youngstown-Warren Municipal Airport, Air Reserve Station, OH
General Mitchell International Airport, Air Reserve Station, WI

June 3 (Location: Boston, MA)

Regional hearing for testimony regarding the following installations:
Tobyhanna Army Deport, PA
Defense Distribution Deport, Tobbyhanna
Letterkenny Army Deport, PA
Portsmouth Naval Shipyard, ME
Fort Holabird, MD
Niagara Falls International Airport, Air Reserve Station, NY

June 9 (Location: Atlanta, GA)

Regional hearing for testimony regarding the following installations:
Space and Strategic Defense Command, AL
Naval Air Station, Atlanta, GA
Robins Air Force Base, GA
Columbus Air Force Base, MS
Homestead Air Force Base, FL

June 10 (Location: Dallas, TX)

Regional hearing for testimony regarding the following installations:
Vance Air Force Base, OK
Tinker Air Force Base, OK
Kelly Air Force Base, TX
Carswell Air Force Base, TX
Laughlin Air Force Base, TX.

Each hearing will begin at 8:30 a.m. and will be open to the public. The exact location of each hearing is not known at this time. Please call the Commission for hearing locations approximately one week prior to each hearing date.

FOR FURTHER INFORMATION CONTACT: Mr. Wade Nelson, Director of communications, at (703) 696–0540.

SUPPLEMENTARY INFORMATION: The Commission will publish changes to the above schedule in the Federal Register. Please call the Commission point of contact to confirm dates, times, and locations prior to each event. Individuals needing special assistance should contact the Commission in advance of each event to facilitate their requirements.

Dated: May 15, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–12353 Filed 5–18–95; 8:45 am]

BILLING CODE 5000–04–M

Meeting of the Commission on Roles and Missions of the Armed Forces

AGENCY: Department of Defense, Commission on Roles and Missions of the Armed Forces.

ACTION: Notice.

SUMMARY: Notice is hereby given of a forthcoming meeting of the Commission on Roles and Missions of the Armed Forces.

The Commission will meet in open session from 2:00 p.m. until 4:00 p.m. The purpose of the meeting will be to conduct a press conference to publicly announce the Commission's recommendations and findings.

DATES: May 24, 1995, 2:00 p.m. until 4:00 p.m.

ADDRESSES: Willard Inter-Continental Hotel, Franklin Pierce Room, 1401 Pennsylvania Avenue, Washington, DC

FOR FURTHER INFORMATION CONTACT: Commander Gregg Hartung, Director for Public Affairs, Commission on Roles and Missions, 1100 Wilson Boulevard, Suite 1200F, Arlington, Virginia 22209; telephone (703) 696–4250.

SUPPLEMENTARY INFORMATION: Extraordinary circumstances created by coordination difficulties compel notice of this meeting to be posted in less than the 15-day requirement.

Dated: May 15, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–12354 Filed 5–18–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Intelligence Agency, Scientific Advisory Board Closed Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Scientific Advisory Board has been scheduled as follows:

DATES: June 20–21, 1995 (830 to 400).

ADDRESSES: The Defense Intelligence Agency, Bolling AFB, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Dr. W.S. Williamson, Executive Secretary, DIA Scientific Advisory Board, Washington, DC 20340–1328 (202) 373–4930.

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(I), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: May 15, 1995.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–12355 Filed 5–18–95; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Final Environmental Impact Statement To Assess the Impacts of Disposal of Fort Devens Property and Potential Reuses of the Property and the Socioeconomic Impacts of the Closure of Fort Devens on the Local Communities

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: In compliance with the National Environmental Policy Act and the President's Council on Environmental Quality, the Army has prepared a Final Environmental Impact Statement (FEIS) for disposal of excess property at Fort Devens, Massachusetts. The FEIS also analyzes impacts on a range of potential reuse alternatives.

Copies of the FEIS have been forwarded to various federal agencies, state and local agencies, and predetermined interested organizations and individuals.

DATES: This FEIS will be available to the public for 30 days, after which the Army will prepare a Record of Decision for the Army action.

ADDRESSES: Copies of the Final Environmental Impact Statement can be obtained by writing or calling Ms. Susan E. Brown, New England Division, U.S. Army Corps of Engineers, 424 Trapelo Road, Waltham, MA 02254–9149, telephone (617) 647–8536. Ms. Brown can also be reached by telefax at (617) 647–8560.

Dated: May 11, 1995.

Richard E. Newsome,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (IL&E).

[FR Doc. 95–12191 Filed 5–18–95; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

[CFDA NO: 84.252]

Urban Community Service Program

Notice inviting applications for new awards for fiscal year (FY) 1995.

Purpose of Program: This program provides grants to urban academic institutions to work with private and civic organizations to devise and implement solutions to pressing and severe problems in their urban communities. The program furthers the National Education Goal of assuring that every American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship, by affording students in urban universities an opportunity to learn more about the problems in their communities and participate in developing solutions to these problems.

Eligible Applicants: Only institutions that have been previously notified that they have met the program's eligibility criteria and have been designated as urban grant institutions by the Secretary are eligible to apply for this year's competition. The deadline for submitting a designation request to compete for fiscal 1995 grants was March 1, 1995; and eligible institutions were notified by letter dated April 12, 1995. The Secretary will not accept additional designation requests until after this year's competition.

Deadline for Transmittal of Applications: June 30, 1995.

Deadline for Intergovernmental Review: August 29, 1995.

Applications Available: May 11, 1995.

Available Funds: $10,380,000.

Estimated Range of Awards: $200,000—$350,000.

Estimated Average Size of Awards: $300,000 per budget period.

Estimated Number of Awards: 34.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to five years in duration.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 82, 85, and 86; and (b) The Urban Community Service Program regulations in 34 CFR Part 636.

Priority: Under 34 CFR 75.105(c)(3) and 20 U.S.C. 1136b(b), the Secretary gives an absolute preference to applications that propose to conduct joint projects supported by other local, State, and Federal programs. The amount of funds to be reserved for this priority will be established after determining the number of high quality applications received.

In addition, the priority in the notice of final priority for this program, as published in the **Federal Register** on March 8, 1995 (57 FR 12750), applies to this competition.

For Applications or Information Contact: Sarah E. Babson, U.S. Department of Education, 600 Independence Avenue, S.W., Portals Building; Suite C–80, Washington, D.C. 20202–5329. You are encouraged to fax your request for an application to (202) 260–7615. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Program Authority: 20 U.S.C. 1136–1136h.

Dated: May 12, 1995.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 95–12301 Filed 5–18–95; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Federal Energy Management and Planning Programs; Energy Savings Performance Qualified Contractor List

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy has issued the final rule on ''Methods and Procedures for Energy Savings Performance Contracting'' as required by section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) (60 FR 18326, April 10, 1995). Pursuant to 42 U.S.C. 8287(b)(2) and 10 CFR § 436.32, the Department has developed a qualification questionnaire and established a list of firms qualified to performed energy savings services. This notice is to inform Federal agencies that the Department of Energy list of qualified firms is in place and may be used to select firms for energy savings performance contracts. The qualifications questionnaire developed by the Department is available if an agency elects to prepare its own list of qualified firms pursuant to 10 CFR § 436.32(c). Agencies may request copies of the list of qualified firms or the qualifications questionnaire by calling the Federal Energy Management Program Help Desk at 800–566–2877.

FOR FURTHER INFORMATION CONTACT: Joan G. Stone, EE–92, Office of Federal Energy Management Programs, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–5772.

Dated: May 10, 1995.

Mark B. Ginsberg,

Director, Office of Federal Energy Management Programs.

[FR Doc. 95–12378 Filed 5–18–95; 8:45 am]

BILLING CODE 6450–01–M

Office of Energy Research

Energy Research Financial Assistance Program Notice 95–09: Outstanding Junior Investigator Program

AGENCY: U. S. Department of Energy (DOE).

ACTION: Notice inviting grant applications.

SUMMARY: The Division of High Energy Physics of the Office of Energy Research (OER), U.S. Department of Energy, hereby announces its interest in receiving grant applications for support under its Outstanding Junior Investigator (OJI) Program. Proposals should be from non-tenured academic faculty investigators who are currently involved in experimental and theoretical high energy physics or accelerator physics research, and should be submitted through a U.S. academic institution. The purpose of this program is to support the development of the individual research programs of outstanding scientists early in their careers. Awards made under this program will help to maintain the vitality of university research and assure continued excellence in the teaching of physics. It is expected that DOE will issue five to ten grant awards for OJI research projects during the fiscal year, depending on the number of meritorious applications and the availability of appropriated Fiscal Year 1996 funds.

DATES: To permit timely consideration for award in Fiscal Year 1996, formal applications submitted in response to this notice should be received no later than 4:30 EST November 1, 1995.

ADDRESSES: Completed formal applications referencing Program Notice 95–09 should be forwarded to: U.S. Department of Energy, Office of Energy Research, Grants and Contracts Division, ER–64 (GTN), 19901 Germantown Road, Germantown, Maryland 20874–1290, ATTN: Program Notice 95–09. The same address must be used when submitting applications by U.S. Postal Service Express, any commercial mail delivery service, or when handcarried by the applicant.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey Mandula, Division of High Energy Physics, ER–221 (GTN), U.S. Department of Energy, 19901 Germantown Road, Germantown, Maryland 20874–1290. Telephone: (301) 903–4829.

SUPPLEMENTARY INFORMATION: The Outstanding Junior Investigator program was started in 1978 by the Department of Energy's Office of Energy Research. A principal goal of this program is to identify exceptionally talented new high energy physicists early in their careers and assist and facilitate the development of their research programs. In accordance with 10 CFR 600.7(b)(1), eligibility for awards under this notice is restricted to non-tenured academic investigators who are conducting experimental or theoretical high energy physics or accelerator physics research at an established U.S. academic institution. Since its debut, the program has initiated support for between five and ten new Outstanding Junior Investigators each year. The program has been very successful and makes an important contribution to the vigor of the High Energy Physics program. Applicants should request support under this notice for normal research project costs as required to conduct their proposed research activities.

General information about development and submission of applications, eligibility, limitations, evaluations and selection processes, and other policies and procedures are

contained in the Application Guide for the Office of Energy Research Financial Assistance Program and 10 CFR Part 605. The DOE expects to make five to ten grant awards in Fiscal Year 1996 to meet the objectives of this program. It is anticipated that approximately $370,000 will be available in Fiscal Year 1996 subject to availability of appropriated funds. In the past, awards have averaged $50,000 per year, with the number of awards determined by the number of excellent applications and the total funds available for this program. The application guide is available from the U.S. Department of Energy, Division of High Energy Physics, Office of Energy Research, ER–221, 19901 Germantown Road, Germantown, Maryland 20874–1290. Telephone requests may be made by calling (301) 903–4829.

The Catalog of Federal Domestic Assistance Number for this program is 81.049 and the solicitation control number is ERFAP 10 CFR Part 605.

Issued in Washington, DC on May 4, 1995.

D.D. Mayhew,

Associate Director, Office of Resource Management, Office of Energy Research.

[FR Doc. 95–12377 Filed 5–18–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. EG95–45–000, et al.]

Burney Forest Products, et al.; Electric Rate and Corporate Regulation Filings

May 11, 1995.

Take notice that the following filings have been made with the Commission:

1. Burney Forest Products

[Docket No. EG95–45–000]

On April 28, 1995, Burney Forest Products, A Joint Venture (BFP), 35586–C, Highway 299 East, Burney California 96013, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's regulations.

BFP is a general partnership consisting of California Bio Resources II, Inc., Forest Products, L.P., and DCTC-Burney, Inc. BFP owns and operates a 34.23 MVA small power production facility located approximately 2.0 miles west of the community of Burney, in Shasta County, California. This facility, which is the subject of this application, consists of two boilers and one steam turbine generator. The primary energy source is currently biomass in the form of wood waste.

BFP states that it will be engaged directly and exclusively in the business of owning and operating all or part of an eligible facility (under Section 32(a)(1) of the Public Utility Holding Company Act) and selling electric energy at wholesale.

Comment date: June 1, 1995, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. CNG Power Services Corporation

[Docket No. ER94–1554–003]

Take notice that on April 28, 1995, CNG Power Services Corporation tendered for filing a summary of activity for the quarter ending March 31, 1995.

3. Northwest Regional Transmission Association

[Docket No. ER95–19–000]

Take notice that on April 14, 1995, Portland General Electric Company (PGE) tendered for filing on behalf of itself, Puget Sound Power & Light Company, City of Tacoma Department of Public Utilities, Western Montana Generation and Transmission Cooperative, Inc., Pacific Northwest Generating Cooperative, and Tenaska Power Services (together, the Filing Parties) letters of support for the Governing Agreement of the Northwest Regional Transmission (NRTA), the Agreement of the Northwest Power Pool (NWPP), the NWPP membership list, and the executed signature pages of parties to the NRTA Governing Agreement. PGE asks that the Commission accept the NRTA Governing Agreement for filing as amended.

Comment date: May 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Gas and Electric Company

[Docket No. ER95–980–000]

Take notice that on May 1, 1995, Pacific Gas and Electric Company (PG&E), tendered for filing a Network Integration Service Transmission tariff and a Point-to-Point Transmission Service tariff.

PG&E proposes that these tariffs, as may be subject to refund or otherwise, become effective on July 1, 1995. PG&E is requesting any necessary waivers.

Copies of this filing have been served upon the California Public Utilities Commission, and other interested parties.

Comment date: May 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

5. PacifiCorp

[Docket No. ER95–981–000]

Take notice that on May 1, 1995, PacifiCorp tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Power Exchange Agreement dated April 25, 1995, between PacifiCorp and the City of Redding (Redding).

Copies of this filing were supplied to Redding, the Washington Utilities and Transportation Commission, the Public Utility Commission of Oregon and the Public Utilities Commission of the State of California.

Comment date: May 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

6. The Washington Water Power Company

[Docket No. ER95–982–000]

Take notice that on May 1, 1995, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.12, an Agreement for the sale of firm capacity and associated energy to the Inland Power and Light Company for an initial period of ten years.

Comment date: May 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Northeast Utilities Service Company

[Docket No. ER95–983–000]

Take notice that on May 1, 1995, Northeast Utilities Service Company (NUSCO), on behalf of the Northeast Utilities System Companies filed an amendment to a Service Agreement for firm transmission service to MASSPOWER under NUSCO's Tariff No. 1. The amendment provides only for a change in a delivery point for a short period of time.

NUSCO states that copies of its submission have been mailed or delivered to MASSPOWER.

Comment date: May 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Northeast Utilities Service Company

[Docket No. ER95–984–000]

Take notice that on May 1, 1995, Northeast Utilities Service Company

(NUSCO), tendered for filing a Service Agreement and a certificate of Concurrence with the UNITIL Power Corp (UPC) under the NU System Companies System Power Sales/ Exchange Tariff No. 6.

NUSCO states that a copy of this filing has been mailed to UPC.

NUSCO requests that the Service Agreement become effective May 1, 1995.

Comment date: May 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Northeast Utilities Service Company

[Docket No. ER95–985–000]

Take notice that on May 1, 1995, Northeast Utilities Service Company (NUSCO), tendered for filing a Service Agreement and a Certificate of Concurrence with the Fitchburg Gas and Electric Light Company (FG&E) under the NU System Companies' System Power Sales/Exchange Tariff No. 6.

NUSCO states that a copy of this filing has been mailed to FG&E.

NUSCO requests that the Service Agreement become effective on May 1, 1995.

Comment date: May 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Consolidated Edison Company of New York, Inc.

[Docket No. ER95–986–000]

Take notice that on May 1, 1995, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule FERC No. 66 an agreement to provide transmission service for the Power Authority of the State of New York (the Authority). The Supplement provides for an increase in the monthly transmission charge from $1.12 to $1.18 per kilowatt per month for transmission of power and energy sold by the Authority to Grumman Corporation, thus increasing annual revenues under the Rate Schedule by a total of $6,079.68 requested that the increase take effect on July 1, 1995.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: May 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Consolidated Edison Company of New York, Inc.

[Docket No. ER95–987–000]

Take notice that on May 1, 1995, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to Con Edison Rate Schedule FERC No. 94 for transmission service for the Long Island Lighting Company (LILCO). The Rate Schedule provides for transmission of power and energy from the New York Power Authority's Blenheim-Gilboa station. The Supplement provides for an increase in annual revenues under the Rate Schedule of $38,872.50. Con Edison has requested that this increase take effect on July 1, 1995.

Con Edison states that a copy of this filing has been served by mail upon LILCO.

Comment date: May 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Consolidated Edison Company of New York, Inc.

[Docket No. ER95–988–000]

Take notice that on May 1, 1995, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule FERC No. 117, an agreement to provide transmission and interconnection service to Long Island Lighting Company (LILCO). The Supplement provides for an increase in annual revenues under the Rate Schedule by a total of $166,174.05 for transmission service from $36.55 and $79.18 per MW per day to $38.46 and $81.31 per MW per day. Con Edison has requested that this increase take effect on July 1, 1995.

Con Edison states that a copy of this filing has been served by mail upon LILCO.

Comment date: May 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Consolidated Edison Company of New York, Inc.

[Docket No. ER95–989–000]

Take notice that on May 1, 1995, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule FERC No. 60, an agreement to provide transmission service for the Power Authority of the State of New York (the Authority). The Supplement provides for an increase in the monthly transmission charge from $1.12 to $1.18 per kilowatt per month for transmission of power and energy sold by the Authority to Brookhaven National Laboratory, thus increasing annual revenues under the Rate Schedule by a total of $31,763.52 Con Edison has requested that the increase take effect on July 1, 1995.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: May 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Consolidated Edison Company of New York, Inc.

[Docket No. ER95–990–000]

Take notice that on May 1, 1995, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule FERC No. 102, an agreement to provide transmission service for the New York Power Authority (the Authority). The Supplement provides for an increase in the monthly transmission charge from $1.12 to $1.18 per kilowatt per month for transmission of power and energy sold by the Authority to its Economic Development Power customers on Long Island, thus increasing annual revenues under the Rate Schedules by a total of $13,882.32. The Supplement also increases the monthly charge for an alternative transmission service from $2.41 to $2.51 per kilowatt per month. Con Edison has requested that the increase take effect on July 1, 1995.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: May 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Consolidated Edison Company of New York, Inc.

[Docket No. ER95–991–000]

Take notice that on May 1, 1995, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to its Rate Schedule FERC No. 78, an agreement to provide transmission service for the Power Authority of the State of New York (the Authority). The Supplement provides for an increase in the monthly transmission charge from $1.12 to $1.18 per kilowatt per month for transmission of power and energy sold by the Authority to the municipal distribution agencies of Nassau and Suffolk Counties, thus increasing annual revenues under the Rate Schedule by a total of $5,138.64. Con Edison has requested that the increase take effect on July 1, 1995.

Con Edison states that a copy of this filing has been served by mail upon the Authority.

Comment date: May 25, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–12335 Filed 5–18–95; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 516–176 South Carolina]

South Carolina Electric and Gas Company; Notice of Availability of Environmental Assessment

May 15, 1995.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's Regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application for the lease of 117 acres of project lands for the development of a county park (Saluda Shoals Park) on the Saluda River below the dam at Lake Murray. The park would provide multi-use, land-based recreation facilities and would be operated by the Irmo-Chapin Recreation Commission.

The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, the staff concludes that the licensee's proposals would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, Room 3308, of the Commission's Offices at 941 North Capitol Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–12308 Filed 5–18–95; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 3188–000]

Joseph M. Keating; Notice of Filing

May 15, 1995.

Please take notice that on October 18, 1988, Mr. Tom Camp, a member of the Commission's staff from Washington, DC, prepared a video tape of the project site for the proposed Pyramid Creek Project in the El Dorado National Forest, California. The video tape has been filed by the staff as a part of the record in the above-captioned proceeding. The tape was made on a clear day and depicts the reaches of Pyramid Creek along which project facilities would be located, remains of certain facilities of a now inoperable hydroelectric project at the same site, some of the geologic features of the area, U.S. Highway 50 where it runs past the proposed project site, an the surrounding landscape.

The video tape is available for viewing upon request by contacting the Commission's Public Reference Room in 941 North Capitol Street, N.E., Washington, D.C. 20426, telephone (202) 208–1371.

Lois D. Cashell,

Secretary.

[FR Doc. 95–12309 Filed 5–18–95; 8:45 am]

BILLING CODE 8010–01–M

[Docket No. CP95–494–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

May 15, 1995.

Take notice that on May 11, 1995, NorAm Gas Transmission Company (NGT), 1600 Smith Street, Houston, Texas 77002, filed in Docket No. CP95–494–000 a request pursuant to Section 157.205 of the Commission's Regulations to construct and operate a new delivery point to Arkla, a division of NorAm Energy Corp., to serve a rural residential customer in Coal County, Oklahoma under NGT's blanket certificate issued in Docket No. CP82–384–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

NGT proposes to construct one 1-inch tap, valve setting and 1-inch regulator on NGT's Line 638 in Coal County, Oklahoma. NGT states that Arkla would install a meter and second cut regulator to provide service to a rural residential customer. The estimated volumes to be delivered through this tap are approximately 85 MMBtu of natural gas per year and 1 MMBtu of natural gas per day, it is indicated. NGT states that NGT would transport natural gas service to Arkla within Arkla's entitlements under NGT's tariffs. NGT states that the establishment of this delivery point is not prohibited by NGT's existing tariff and NGT has sufficient capacity to accomplish deliveries at this new delivery point without detriment or disadvantage to NGT's other customers. NGT states that the estimated cost to install these facilities is $1,800, which would be reimbursed by Arkla.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 95–12310 Filed 5–18–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[5207–7]

Proposed Settlement; Acid Rain Core Rules Litigation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Settlement; Request for Public Comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act (''Act''), notice is hereby given of a proposed fourth partial settlement of *Environmental Defense Fund* v. *Carol M. Browner, et al.*, No. 93–1203 (and consolidated cases) (D.C. Cir.)

The case involves challenges by several parties to the acid rain core rules published in the **Federal Register** on January 11, 1993, at 58 FR 3590 (January 11, 1993). The proposed settlement relates to the monitoring issues raised by the petitioners in the case and provides for a number of revisions to 40 CFR part 75.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement from persons who were not named as parties to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed settlement if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Copies of the settlement are available from Phyllis Cochran, Air and Radiation Division (2344), Office of

General Counsel, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 260–7606. Written comments should be sent to Patricia A. Embrey at the above address and must be submitted on or before June 19, 1995.

Dated: April 27, 1995.

Scott C. Fulton,

Acting General Counsel.

[FR Doc. 95–12368 Filed 5–18–95; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–4723–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 10, 1995 Through April 14, 1995 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities AT (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 1995 (72 FR 19047).

Draft EISs

ERP No. D–BLM–K08018–CA Rating EC2, Alturas 345 Kilovolt (KV) Electric Power Transmission Line Project, Construction, Operation and Maintenance, Right-of-Way Grant Approval, Special-Use-Permit and COE Section 404 Permit, Susanville District, Modoc, Lassen and Sierra Counties, CA and Washoe County, NV.

Summary: EPA expressed environmental concerns regarding air quality conformity issues, biological resources, and project description information. In addition, further mitigation for cultural resources impacts are recommended.

ERP No. D–COE–E35083–NC Rating EO2, Buckhorn Reservoir Expansion, Construction of a Dam to Impound Water on the Contentnea Creek, COE Section 404 Permit, City of Wilson, Wilson County, NC.

Summary: EPA expressed environmental objections over the potential loss of 1,300 acres of wetlands, and questioned whether the proposed mitigation for the losses was appropriate. In addition, EPA expressed concerns over maintenance of water quality at the proposed reservoir.

ERP No. D–COE–G36146–LA Rating LO, Amite River and Tributaries Flood Control Project, Implementation, East Baton Rouge Parish Watershed, Florida Parishes, LA.

Summary: EPA expressed lack of objections to the proposed project, and supported the identified mitigation measures.

ERP No. D–DOE–E06015–SC Rating EC1, Savannah River Site Interim Management of Nuclear Materials, Implementation, Aiken and Barnwell Counties, SC.

Summary: EPA expressed environmental concern regarding the discussion of waste minimization, pollution prevention and spent nuclear fuel. EPA recommended additional information on these issues be included in the final document.

Final EISs

ERP No. F–USA–E11034–NC, Military Ocean Terminal Navigation Basins and Entrance Channels Improvements, Implementation, Sunny Point, Brunswick and New Hanover Counties, NC.

Summary: EPA expressed environmental concerns about whether potential adverse impacts to water quality/biological resources resulting from the deepened navigation features have been adequately addressed.

Dated: May 16, 1995.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95–12393 Filed 5–18–95; 8:45 am]

BILLING CODE 6560–50–U

[ER–FRL–4723–1]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260–5076 OR (202) 260–5075.

Weekly receipt of Environmental Impact Statements Filed May 08, 1995 Through May 12, 1995 Pursuant to 40 CFR 1506.9.

EIS No. 950189, Draft Supplement, COE, NC, Texasgulf Open Pit Mine Continuation, Construction and Operation, Additional Information Concerning Alternative E for Wetland Avoidance/Minimization, Permit, Approval, Pamlico River, Aurora, Beaufort County, NC, Due: July 03, 1995, Contact: Hugh Heine (910) 251–4070.

EIS No. 950190, Draft EIS, TVA, TN, Upper Tennessee River Navigation Improvement Project, Rehabilitation and/or Construction,, Ckickamauga Dam—Navigation Lock Structural Improvement Alternative, Funding, NPDES Permit, Coast Guard Bridge Permit and COE Section 404 Permits, Tennessee River, Hamilton County, TN, Due: July 03, 1995, Contact: Linda B. Oxendine (615) 632–3440.

EIS No. 950191, Draft EIS, BLM, OR, Lake Abert Area Designation as an Area of Critical Environmental Concerns (ACEC), High Desert Management Framework Amendment Plan, Right-of-Way Grant and Drilling Permit, Valley Falls, Lake County, OR, Due: August 16, 1995, Contact: Scott Florence (503) 947–2177.

EIS No. 950192, Draft EIS, FHW, WV, Merrick Creek Connector Improvements Project, between US 60 to WV–2 also a New Interchange at I–64, Funding and COE Section 404 Permit, Cabell County, WV, Due: July 07, 1995, Contact: Bobby W. Blackmon (304) 347–5928.

EIS No. 950193, Draft Supplement, COE, TX, Galveston Bay Area Navigation Improvements, Houston Ship and Galveston Channels, Additional Information, Funding and Implementation, Galveston and Harris Counties, TX, Due: July 03, 1995, Contact: Richard Medina (409) 766–3044.

EIS No. 950194, Draft EIS, DOA, AS, Aua Watershed Plan, Flood Prevention and Watershed Protection, Funding, COE Section 404 Permit and Right-of-Way Grant, Tutuila Island, Ma'oputasi County, AS, Due: July 22, 1995, Contact: Joan B. Perry (671) 472–7490.

EIS No. 950195, Draft EIS, AFS, MT, Beaver Woods Vegetation Management Project, Implementation, Bitter National Forest, West Fork Ranger District, Ravalli County, MT, Due: July 03, 1995, Contact: Nora Rasure (406) 821–3269.

EIS No. 950196, Legislative Draft E, AFS, OR, Dutch Flat Creek, Killamacue Creek and Rock Creek Wild and Scenic River Study, Designation or Nondesignation, National Wild and Scenic River System, Wallowa-Whitman National Forest, American Rivers, Baker County, OR, Due: August 07, 1995, Contact: Steve Davis (503) 523–1316.

EIS No. 950197, Draft EIS, CGD, NY, NJ, Staten Island Bridges Program—Modernization and Capacity Enhancement Project, Construction and Operation, Funding, Right-of-Way Grant, COE Section 404 Permit and NPDES Permit, Staten Island, NY and Elizabeth, NJ, Due: July 14, 1995, Contact: Evelyn Smart (212) 668–7995.

EIS No. 950198, Final Supplement, COE, IN, Little Calumet River Multipurpose Project, Additional Information, Flood Control and Flood

Protection, Lake and Porter Counties, IN, Due: June 19, 1995, Contact: Phillip B. Moy (312) 886–0451.

EIS No. 950199, Draft EIS, AFS, MT, Murphy Timber Sales, Harvesting Timber, Road Construction and Prescribed Burning, Kootena National Forest, Fortine Ranger District, Lincoln County, MT, Due: July 03, 1995, Contact: Joleen Dunham (406) 882–4451.

EIS No. 950200, Draft Supplement, UAF, NH, ME, Pease Air Force (AFS) Disposal and Reuse, Updated Information, Implementation, Portsmouth, Newington, Greenland, Rye, Dover Durham, Madburg, Rochester, NH and Kittery, Eliot and Berwicks, ME, Due: July 03, 1995, Contact: Jonathan Forthing (210) 536–3787.

EIS No. 950201, Final EIS, UAF, MA, Fort Devens Army Installation Disposal and Reuse, Implementation, Worcester and Middlesex Counties, MA, Due: June 19, 1995, Contact: Susan E. Brown (617) 647–8536.

EIS No. 950202, Final EIS, FHW, NC, Greensboro Western Urban Loop Transportation Improvement, from Lawndale Drive near Cottage Place to I–85 South near Holden Road, Funding, Right-of-Way Acquisition, and COE Section 404 Permit, Guilford County, NC, Due: June 19, 1995, Contact: Nicholas L. Graf (919) 856–4350.

Amended Notices

EIS No. 950149, Draft EIS, IBR, AZ, Tucson Aqueduct System Reliability Investigation (TASRI), Central Arizona Project, Surface Storage Reservoir Construction, COE Section 404 Permit, Gila River, City of Tucson, Pima County, AZ , Due: July 14, 1995, Contact: Bruce D. Ellis (602) 870–6767.

Published FR 04–28–95—Review period extended.

Dated: May 16, 1995.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 95–12392 Filed 5–18–95; 8:45 am]

BILLING CODE 6560–50–U

[FRL–5208–9]

Open Meeting of the Federal Facilities Environmental Restoration Dialogue Committee

AGENCY: Environmental Protection Agency.

ACTION: FACA Committee Meeting—Federal Facilities Environmental Restoration Dialogue Committee.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), we are giving notice of the next meeting of the Federal Facilities Environmental Restoration Dialogue Committee. The meeting is open to the public without advance registration.

The purpose of the meeting is to discuss issues related to improving the Federal facilities environmental restoration process.

DATES: The meeting will be held on June 6, 1995, from 9 a.m. until 5 p.m. and on June 7, 1995, from 9 a.m. until 4 p.m.

ADDRESSES: The meeting will be held at the Sheraton City Centre, 1143 New Hampshire Ave, NW., Washington D.C.

FOR FURTHER INFORMATION CONTACT: Persons needing further information on the meeting or on the Federal Facilities Environmental Restoration Dialogue Committee should contact Sven-Erik Kaiser, Federal Facilities Restoration and Reuse Office (5101), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202) 260–5138.

Dated: May 15, 1995.

Sven-Erik Kaiser,

Designated Federal Official.

[FR Doc. 95–12369 Filed 5–18–95; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5208–7]

Aqua-Tech Environmental, Inc., Greer, South Carolina; Notice of Proposed De Minimis Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed de minimis settlement.

SUMMARY: Under Section 122(g)(4) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has offered approximately 135 de minimis parties who sent gas cylinders to the Aqua-Tech Environmental, Inc. Site (SITE) an opportunity to enter into an Administrative Order on Consent (AOC) to settle claims for past and future response costs at the Site. EPA will consider public comments on the proposed settlement for thirty (30) calendar days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement and a list of proposed settling de minimis parties are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, Waste Programs Branch, Waste Management Division, 345 Courtland Street, N.E., Atlanta, Georgia 30365, 404/347–5059, ext. 6169.

Written comments may be submitted to the person above within thirty (30) calendar days of the date of publication.

Dated: May 4, 1995.

H. Kirk Lucius,

Acting Director, Waste Management Division.

[FR Doc. 95–12304 Filed 5–18–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5205–9]

Flint River Bridge Drum Site; Cost Recovery Agreement for Removal Action

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed cost recovery agreement for removal action.

SUMMARY: Under § 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency (EPA) has agreed to settle claims for response costs at the Flint River Bridge Drum Site, Gurley and Madison Counties, Alabama with one party: Owens-Corning Fiberglass Corporation. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, Cost Recovery Section, Waste Programs Branch, Waste Management Division, U.S. EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, 404/347–5059 X6169.

Written comments may be submitted to the person above by thirty days from the date of publication.

Dated: May 11, 1995.

James Miller,

Acting Chief, Waste Programs Branch, Waste Management Division.

[FR Doc. 95–12305 Filed 5–18–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5208–6]

Tennessee Gas Pipeline Company; Notice of Proposed Settlement, Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction to notice of proposed settlement.

SUMMARY: In the document beginning on page 21210 in the issue of May 1, 1995, the Environmental Protection Agency (EPA) gave notice of a proposed settlement under Section 122(h) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) with potentially responsible parties relating to the Tennessee Gas Pipeline Company (erroneously named ''Tennessee Gas and Pipeline'' in the notice document) sites located along the Gulf Coast of Texas, Louisiana, and Mississippi and extending along three routes to markets in the midwestern and northeastern United States (Site). That notice is hereby corrected to clarify the scope of matters in that proposed settlement on which EPA will consider public comments, as required under CERCLA Section 122(i). EPA has offered to settle with potentially responsible parties with respect to their liability under CERCLA for response costs related to the Site and incurred and paid by the United States, and will consider public comments for (30) days exclusively on that cost recovery component of the proposed settlement. EPA may withdraw from or modify the cost recovery component of the proposed settlement should such comments disclose facts or considerations which indicate that the cost recovery component is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, Waste Management Division, U.S. EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, 404/347–5059 x6169.

Written comments may be submitted to Ms. Batchelor within 30 days of publication of this correction.

Dated: May 4, 1995.

H. Kirk Lucius,

Chief, Waste Programs Branch, Waste Management Division.

[FR Doc. 95–12306 Filed 5–18–95; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1049–DR]

Louisiana; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–1049–DR), dated May 10, 1995, and related determinations.

EFFECTIVE DATE: May 10, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated May 10, 1995, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Louisiana, resulting from severe storms, tornadoes and flooding on May 8–9, 1995 is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act). I, therefore, declare that such a major disaster exists in the State of Louisiana.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance. Public Assistance may be added at a later date, if requested and warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. If warranted, for the first 72 hours, you are authorized to fund direct Federal assistance at 100 percent of the total eligible costs. You or your designee may extend the time period for this direct Federal assistance funding, if necessary.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint G. Clay Hollister of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Louisiana to have been affected adversely by this declared major disaster:

St. Charles Parish for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James L. Witt,

Director.

[FR Doc. 94–12358 Filed 5–18–94; 8:45 am]

BILLING CODE 6718–02–M

[FEMA–1049–DR]

(Louisiana); Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana (FEMA–1049–DR), dated May 10, 1995 and related determinations.

EFFECTIVE DATE: May 13, 1995.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Louisiana dated May 10, 1995, is hereby amended to include Public Assistance for the following areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 10, 1995:

Jefferson, Orleans, and St. Charles Parishes for Public Assistance (already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Associate Director, Response and Recovery Directorate.

[FR Doc. 95–1235 Filed 5–18–95; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License number: 1153
Name: Nettles & Company, Inc.
Address: 601 Busse Highway, Elk Grove, IL 60007
Date Revoked: March 29, 1995
Reason: Failed to furnish a valid surety bond.

License Number: 281
Name: H.G. Ollendorff, Inc.
Address: c/o Martin P. Ochs, 501 Fifth Ave., NY, NY 10017
Date Revoked: March 30, 1995
Reason: Failed to furnish a valid surety bond.

License Number: 697
Name: Transport Masters International Inc.
Address: 20 Pershing Pl., Cresskill, NJ 07626
Date Revoked: April 14, 1995
Reason: Surrendered license voluntarily.

License Number: 229
Name: Milton Snedeker Corporation
Address: P.O. Box 1118, Valley Stream, NY 11582–1118
Date Revoked: April 19, 1995
Reason: Failed to furnish a valid surety bond.

License Number: 3477
Name: Walker International Transportation, Inc.
Address: 182–16 147th Ave., #201, Jamaica, NY 11413
Date Revoked: April 22, 1995
Reason: Failed to furnish a valid surety bond.

License Number: 3210
Name: Dateline Forwarding Service, Inc.
Address: 415 E. Grand Ave., Unit B, San Francisco, CA 94080
Date Revoked: April 23, 1993
Reason: Failed to furnish a valid surety bond.

License Number: 2683
Name: Intersped, Inc.
Address: 39 Beacon Street, Port Reading, NJ 07064
Date Revoked: April 25, 1995
Reason: Failed to furnish a valid surety bond.

Bryant L. VanBrakle,

Director, Bureau of Tariffs, Certification and Licensing.

[FR Doc. 95–12307 Filed 5–18–95; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Allied Irish Banks, p.l.c.; Notice to Engage in Nonbanking Activities

This notice corrects a notice (FR Doc. 95-6868) published on page 14,942 of the issue for Tuesday, March 21, 1995. The entry for Allied Irish Banks, p.l.c., Dublin, Ireland (Allied), is revised to include providing, through AIB Investment Managers Limited, Dublin, Ireland (Company), discretionary portfolio management services by purchasing and selling foreign exchange, foreign exchange-related instruments, and certain futures and options on futures on financial commodities for customer accounts. Company would conduct the proposed activities throughout the world.

Allied states that Company would not trade for its own account, but only for the accounts of customers, and would only provide the proposed services to institutional customers, as defined in § 225.2(g) of the Board's Regulation Y. Allied maintains that the Board previously has determined by regulation that providing foreign exchange-related discretionary portfolio management services is closely related to banking. 12 CFR 225.25(b)(17). Allied has stated that Company's foreign exchange-related advisory activities would comply with the limitations contained in § 225.25(b)(17) of the Board's Regulation Y. Allied also maintains that the Board previously has determined that providing discretionary portfolio management services in connection with the purchase and sale of futures and options on futures on financial commodities is closely related to banking. *See Banque Nationale de Paris*, 81 Federal Reserve Bulletin 386 (1995) (BNP). Allied has stated that unlike the proposal approved by the Board in BNP, Company would purchase and sell over-the-counter instruments on behalf of managed accounts. In order to address potential conflicts of interest and other potential adverse effects, Allied has committed that Company would observe the standards of care and conduct applicable to fiduciaries.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than June 22, 1995. Any request for a hearing on this notice must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This notice may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Richmond.

Board of Governors of the Federal Reserve System, May 15, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–12348 Filed 5–18–95; 8:45 am]

BILLING CODE 6210–01–F

Fifth Third Bancorp, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 13, 1995.

A. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. Fifth Third Bancorp, Cincinnati, Ohio; to acquire 100 percent of the voting shares of Bank of Naples, Naples, Florida.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Matenve, Ltd., Miami, Florida; to become a bank holding company by acquiring 25.97 percent of the voting shares of Ocean Bankshares, Inc., Miami, Florida, and thereby indirectly acquire Ocean Bank, Miami, Florida.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. The Berens Corporation, Houston, Texas, and Berens Delaware, Inc., Wilmington, Delaware; to become a bank holding companies by acquiring 100 percent of the voting shares of First National Bank of Dayton, Houston, Texas.

In connection with this application The Berens Corporation, Houston,

Texas, also has applied to acquire First National Bank of Dayton, Dayton, Texas.

Board of Governors of the Federal Reserve System, May 15, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–12349 Filed 5–18–95; 8:45 am]

BILLING CODE 6210–01–F

401(k)Plan and ESOP of United States Trust Company of New York; Change in Bank Control Notice

Acquisition of Shares of Banks or Bank Holding Companies

The notificant listed below has applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for the notice or to the offices of the Board of Governors. Comments must be received not later than June 2, 1995.

A. Federal Reserve Bank of New York (William L. Rutledge, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. 401(k)Plan and ESOP of United States Trust Company of New York, New York, New York; to acquire 24.9 percent of the voting shares of New USTC Holdings Corporation, New York, New York, and thereby indirectly acquire New U.S. Trust Company of New York, New York, New York; U.S. Trust Company of California, Los Angeles, California; U.S. Trust Company of Texas, Dallas, Texas; and U.S. Trust Company of Florida Savings Bank, Palm Beach, Florida.

Board of Governors of the Federal Reserve System, May 15, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–12350 Filed 5–18–95; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Nominations of Clinical Practice Guideline Topics

The Agency for Health Care Policy and Research (AHCPR) is inviting recommendations of health topics, with supporting rationale, for consideration by AHCPR in selecting topics for development of clinical practice guidelines. The process AHCPR employs in establishing priorities and selecting topics for guidelines, based on statutory criteria, is described below.

Background

The Agency for Health Care Policy and Research (AHCPR) is charged, under Title IX of the Public Health Service Act (PHS Act), with enhancing the quality, appropriateness, and effectiveness of health care services, and access to such services. The AHCPR accomplishes its goals through the establishment of a broad base of scientific research and through the promotion of improvements in clinical practice and in the organization, financing, and delivery of health care services. (42 U.S.C. 299–299c–6 and 1320b–12.)

As part of its charge, under section 912 of the PHS Act, the Administrator of AHCPR arranges for the development, periodic review, and updating of clinically relevant guidelines that may be used by physicians, other health care practitioners, providers, educators, and health care consumers to assist in determining how diseases, disorders, and other health conditions can most effectively and appropriately be prevented, diagnosed, treated, and clinically managed. (See 42 U.S.C. 299b–1(a).)

The guidelines are required to:

1. Be based on the best available research and professional judgment;

2. Be presented in formats appropriate for use by physicians, other health care practitioners, providers, medical educators, medical review organizations, and consumers;

3. Be presented in treatment-specific or condition-specific forms appropriate for use in clinical practice, educational programs, and review of quality and appropriateness of medical care;

4. Include information on the risks and benefits of alternative strategies for prevention, diagnosis, treatment, and management of the particular health condition(s); and

5. Include information on the costs of alternative strategies for prevention, diagnosis, treatment, and management of the particular health condition(s), where cost information is available and reliable.

Section 914(a) of the PHS Act (42 U.S.C. 299b–3(a)) identifies factors to be considered in establishing priorities for guidelines, including the extent to which the guidelines would:

1. Improve methods for disease prevention;

2. Improve methods of diagnosis, treatment, and clinical management for the benefit of a significant number of individuals;

3. Reduce clinically significant variations among clinicians in the particular services and procedures utilized in making diagnoses and providing treatments; and

4. Reduce clinically significant variations in the outcomes of health care services and procedures.

Section 914 also provides that the methodology may include the considerations under section 904 of the PHS Act, relevant to establishing priorities for technology assessments, and other considerations determined by the Administrator to be appropriate.

The criteria for determining priorities for technology assessments include: The prevalence of a particular health condition; variations in current practice; the economic burden posed by the prevention, diagnosis, treatment, and clinical management of a health condition, including the impact on publicly funded programs; aggregate cost of the use of the technology(ies) involved; the morbidity and mortality associated with the health condition; and the potential to improve health outcomes or affect costs associated with the prevention, diagnosis, or treatment of the condition.

Consistent with several Title IX provisions, such as sections 912(e) and 914(a)(2)(B) of the PHS Act, and with section 1142 of the Social Security Act, the Administrator assures that the needs and priorities of the Medicare program are reflected appropriately in the agenda and priorities for development of guidelines. In the future, the Administrator will also give special consideration to topics which are not likely to be addressed by the private sector, and to those which are likely to be implemented by organized systems of care.

In response to section 914(a)(2)(C), which requires the Administrator to publish a methodology for establishing priorities for guideline topics and a **Federal Register** notice of topics under consideration annually, a notice was published on September 1993, entitled ''Criteria for Selection of Clinical

Practice Guidelines and Topics under Consideration for Development of Clinical Practice Guidelines'' (58 FR 49308). This solicitation of topics is a further step in determining priorities for future guideline development.

Process for Selection of Guideline Topics

The AHCPR's method for setting priorities and selecting guideline topics consists of the process outlined below:

1. Inviting suggestions for guideline topics with supporting information through published notice in the **Federal Register** and from HCFA, PHS agencies, professional organizations, managed care organizations, and professional review and other health care organizations;
2. Determining what consensus statements, practice parameters, and evidence-based guidelines have been recently developed or are under development by other organizations in order to avoid unnecessary duplication of effort;
3. Studying the topics proposed and the supporting documentation to determine compliance with AHCPR criteria and legislative requirements;
4. Determining compliance with the legislation by assessing, among other factors, the adequacy of the available scientific evidence; the prevalence and cost of the particular topic/condition, with particular concern for the Medicare and Medicaid populations; the potential for improvement in health outcomes; the potential for reducing clinically significant and unexplained variations in the prevention, diagnosis, treatment, management, and outcomes of health services; and the potential for improvement of methods of prevention;
5. Seeking advice of public and private sector experts on setting priorities for proposed topics;
6. Determining resource availability from AHCPR and other sources to develop the priority guidelines for the current and upcoming fiscal years; and
7. Considering recommendations from the National Advisory Council on Health Care Policy, Research, and Evaluation.

Clinical Practice Guidelines Completed and Under Development

The following guidelines have been released and disseminated:

1. Acute Pain Management: Operative or Medical Procedures and Trauma
2. Urinary Incontinence in Adults
3. Pressure Ulcers in Adults: Prediction and Prevention
4. Cataract in Adults: Management of Functional Impairment
5. Depression in Primary Care: Volume I: Detection and Diagnosis, and Volume II: Treatment of Major Depression
6. Sickle Cell Disease: Screening, Diagnosis, Management, and Counseling in Newborns and Infants
7. Evaluation and Management of Early HIV Infection
8. Benign Prostatic Hyperplasia: Diagnosis and Treatment
9. Management of Cancer Pain
10. Unstable Angina: Diagnosis and Management
11. Heart Failure: Evaluation and Care of Patients with Left Ventricular Systolic Dysfunction
12. Otitis Media With Effusion in Young Children
13. Treatment of Pressure Ulcers in Adults
14. Acute Low Back Problems in Adults
15. Quality Determinants of Mammography

The following guidelines and one guideline update are under development:

1. Post Stroke Rehabilitation
2. Cardiac Rehabilitation
3. Recognition and Initial Assessment of Alzheimer's and Related Dementias
4. Smoking Prevention and Cessation
5. Screening for Colorectal Cancer
6. Chronic Pain: Headache
7. Urinary Incontinence in Adults (Update)

Nominations of new guideline topics with supporting rationale, including specific evidence and other data, must be received by July 18, 1995 at the following address: Douglas B. Kamerow, M.D., M.P.H., Director, Office of the Forum for Quality and Effectiveness in Health Care, Agency for Health Care Policy and Research, 6000 Executive Boulevard, Suite 310, Rockville, Maryland 20852.

Dated: May 15, 1995.

Clifton R. Gaus,

Administrator.

[FR Doc. 95–12397 Filed 5–18–95; 8:45 am]

BILLING CODE 4160–90–M

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health

[Announcement 554]

Enhancing Young Workers' Occupational Health and Safety Through Community Education Efforts

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1995 funds for a cooperative agreement program for enhancing young workers' occupational health and safety through community education efforts. The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Occupational Health and Safety. (For ordering a copy of Healthy People 2000, see the Section Where to Obtain Additional Information.)

Authority

This program is authorized under Section 21(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670(a)).

Smoke-Free Workplace

The PHS strongly encourages all grant recipients to provide a smoke-free workplace and promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by public and private, non-profit and for-profit organizations and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, agencies whose principal interest is the welfare of youth, State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations and small, minority- and/or women-owned businesses are eligible to apply.

Availability of Funds

Approximately $200,000 is available in FY 1995 to fund one to two awards. It is expected that the award(s) will begin on or about September 30, 1995, and that the award(s) will be made for a 12-month budget period within a project period up to 2 years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

This award will assist in the development of an intervention to raise the awareness of occupational health and safety issues relevant to young workers throughout a community. The objectives are: a) to recruit both a community and a school district within that community to participate in a demonstration project on young worker health and safety issues; b) with community and school cooperation, develop education and information strategies for adults and for adolescents; c) implement those strategies as a demonstration project; and d) evaluate the implementation and develop guides for other communities to establish and sustain similar efforts. Experience from the project should also allow health program planners to develop a process model that can be used to extend the intervention to broader geographic areas.

Program Requirements

In conducting activities to achieve the purposes of this program, the recipient will be responsible for conducting activities under A. (Recipient Activities), and CDC/NIOSH will be responsible for conducting activities under B. (CDC/NIOSH Activities).

A. Recipient Activities

1. Plan and implement a demonstration education program within a cooperating community and one (or more) school systems in that community.

2. Advisory Panel. Establish within the community a project-advisory panel that includes representatives from the community and from the school system. The Panel would be responsible for overseeing and coordinating the organization and application of all community resources to the project. The cooperating entity must use the advisory panel to augment its own resources for program activities. An existing community committee may be used if that committee: a) already has substantial representation from the recruitment list developed as part of Item 1, above; b) has both school district and community representation; and c) agrees to serve in an advisory capacity to the project. The advisory panel will work with the recipient of this cooperative agreement but will not direct the activities of the organizations directly involved in the cooperative agreement.

Output for This Requirement

Minutes of all meetings of the advisory panel.

3. Needs Assessment. Collect relevant data concerning the population of young workers in the community and the school system using quantitative and qualitative data collection methods. Examples of quantitative data are local employment data for both the community and the student body, adolescent work permit information, and characterization of the local business community that uses young workers. Qualitative data includes in depth interviews and/or focus groups with students, employers, parents, teachers, public health officials and others. Such interviews should result in a community portrait of the typical young worker (and his or her employer) in terms of knowledge, attitudes, and behaviors related to occupational safety and health. Examples of knowledge areas for inquiry must include young worker morbidity and mortality, common hazards, employees' and employers' legal rights and responsibilities, and other methods of hazard control. Examples of attitudes to be measured are occupational safety and health concern, perceived susceptibility to injury, and perceived social norms for safety and health behaviors. Examples of behaviors are (for employers) training and supervision of young workers, (for the young workers) adherence to safety and health training and use of personal protective equipment. Information should also be collected from cooperating community groups as to what would help each group contribute to the reduction of occupationally-related injury and illness among working youth in the community. This information must be used in the education activities described next.

Output for This Requirement

Using the data collected in this activity, the recipient must prepare a summary describing young worker employment in the community, knowledge of and attitudes toward young worker occupational safety and health among adults and youth, and education needs on this issue for both students and adults in the community. The report must include an analysis of the implications of the data for the educational interventions.

4. Develop, Demonstrate, and Evaluate Adult Awareness Strategies. Using the needs assessment report from the last requirement, the recipient must develop, demonstrate, and evaluate customized activities whose objectives are to raise the awareness of young worker safety and health issues among parents, teachers, employers, public health workers, union leaders and other opinion leaders in the community. Examples of such activities are presentations to and public information campaigns for community groups, business groups, and education groups such as parent/teacher organizations and parent/teacher associations. Special attention must be devoted to assisting employers in developing administrative structures and actions that will prevent young worker illness and injury. For example, the recipient might assist in develop training materials for young workers at a particular company. This would qualify as assistance to adults if it builds the capacity of the company's personnel to develop such materials. Teachers in the cooperating school must be another important target audience because some of them must play a role in the curriculum development for students, described in the following requirement. Every activity undertaken under this step must be evaluated using either behavioral observation, pencil and paper self-report, and/or records methods. Changes in knowledge of young worker health and safety issues, attitudes toward these issues, and behaviors to protect young workers are the outcomes of interest.

Outputs for This Requirement

(a) A record of strategies developed.

(b) A record of where, when, and how strategies were used.

(c) Copies of visual aids and other educational materials used.

(d) Evaluation protocols, evaluation data collection instruments, and evaluation data analysis results.

5. Develop, Demonstrate, and Evaluate Student Education Strategies. Using the ''needs assessment report'' from requirement three, the recipient must develop, demonstrate, and evaluate customized activities whose objectives are to raise the awareness of young worker safety and health issues among high school students in the cooperating school. Participation of school faculty (motivated by activities under requirement four, above) in this process is very important. Curriculum materials and classroom activities should be planned and implemented not necessarily comprehensively across the curriculum, but selectively, based on the interest and commitment of specific faculty who are willing to incorporate work-related safety and health education in their courses and to support evaluation efforts. Strategies may also (or alternatively) be used in students' extracurricular activities (e.g., journalism, performing arts, law clubs, debate societies) if there is faculty participation in the implementation of those strategies. Every activity undertaken under this step must be

evaluated using either behavioral observation, pencil and paper self-report, or records methods. Changes in knowledge of young worker health and safety issues, attitudes toward these issues, and behaviors to protect young workers (either self- protection or informing others) are the outcomes of interest.

Output for This Requirement

(a) A record of strategies developed under this requirement.

(b) A record of where, when, and how the strategies were used.

(c) Copies of visual aids and other educational materials used.

(d) Evaluation protocols, evaluation data collection instruments, and evaluation data analysis results.

6. Summary Activities. Design and execute an evaluation plan for the entire project that will occur concurrently with the project. It must assess community-level, school-level, employer-level, and individual-level outcomes. It must feature the evaluations specified as outputs from requirements four and five, but it must also assess overall impacts of the program. Outcome measures such as pre- and post-intervention knowledge of and attitudes toward occupational health and safety issues among target audiences listed above, workplace behaviors of both young workers and their employers, and emergency room visits for occupationally-related injuries to youth are examples of what might be used to help assess the project's effectiveness. The evaluation must draw conclusions from the evaluation data and make recommendations for: (a) efforts to sustain the awareness of young worker safety and health issues in the demonstration community and school, (b) pilot efforts in other communities, and (c) efforts to enlarge this community education effort to regional, State, and national levels. The overall evaluation must include copies of all outputs from the previous requirements (1–5). It must also include a model for community-based efforts to stimulate an awareness of young workers' safety and health issues and a ''how to'' guide for communities who might undertake similar efforts. Disseminate these results to participants and other interested parties.

Outputs of This Requirement

(a) An overall evaluation of the program that details evaluation protocols, data collection activities, analysis and interpretation of data, and recommendations for sustaining and enlarging the program.

(b) A guide for other communities and school systems to use to start and maintain a similar program.

(c) Recommendations for dissemination of the evaluation document and the ''how-to'' guide.

7. The recipient must collaborate with CDC in the planning of how best to extend the work of this project.

B. CDC/NIOSH Activities

1. Provide technical assistance and consultation, through site visits and correspondence, in areas of identifying needs, and program development and implementation.

2. Provide limited scientific and technical consultation in the modification of curriculum materials and their subsequent review.

3. Provide limited graphic design, audio production, video production, multimedia production, and other creative services where possible to assist the activities of the project.

4. Provide existing educational or informational materials where appropriate and needed, as supplies permit.

5. Provide technical assistance in the evaluation of the results and efficacy of the process used in this project.

6. Assist in the dissemination of the results of this project to other interested groups.

7. Participate in the planning of the extension of the work of this project to broader geographic areas.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria (maximum 100 total points):

1. Background and Need (10%)

The extent to which the applicant presents data justifying need for the program in terms of magnitude of the related injury problem, and identifies suitable target populations. The extent to which a description of current and previous related experiences:

(a) Is inclusive in terms of young worker health education interventions and their evaluation; and

(b) Demonstrates capacity to conduct the program.

2. Goals and Specific Time-Framed Objectives (15%)

The extent to which the applicant has included goals and objectives which are relevant to the purpose of the proposal and feasible to be accomplished during the project period and the extent to which these are specific and measurable. The extent to which the objectives are specific, time-framed, and measurable. The extent to which the applicant documents an intention to undertake additional activities to either sustain or enlarge this activity should additional funds become available.

3. Methods (30%)

The extent to which the applicant provides a detailed description of proposed activities which are likely to achieve each objective and overall program goals and which includes designation of responsibility for each action undertaken. The extent to which the applicant provides a reasonable and complete schedule for implementing all activities. The extent to which roles of each unit, organization, or agency are described, and coordination and supervision of staff, organizations, and agencies involved in activities are apparent. The extent to which documentation of program organizational location is clear, and shows a coordinated relationship among components forming the applicant's intervention program. The extent to which position descriptions, *curriculum vitae,* and lines of command are appropriate to accomplishment of program goals and objectives. The extent to which concurrences with the applicant's plans are specific and documented.

4. Evaluation (30%)

The extent to which the proposed evaluation system is detailed and will document program process, effectiveness (of strategies employed on intermediate outcomes), and impacts (of strategies and intermediate outcomes on broader outcome measures). The extent to which the applicant demonstrates potential data sources for evaluation purposes, and documents staff availability, expertise, and capacity to perform the evaluation. The extent to which a feasible plan for reporting evaluation results for programmatic decisions is included.

5. Collaboration (15%)

The extent to which relationships between the program and other organizations, agencies, and health department units that will relate to the program or conduct related activities are clear, complete, and provide for complimentary or supplementary working interactions. The extent to which coalition membership and roles are documented and appropriate to the program. The extent to which the relationship with local community entities are activity-specific and show evidence of specific support.

6. Budget and Justification (Not Scored)

The extent to which the applicant provides a detailed budget and narrative justification consistent with stated objectives and planned program activities. The budget information will be reviewed to determine if it is reasonable, clearly justified, and consistent with the intended use of funds.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their state Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. Indian tribes are strongly encouraged to request tribal government review of the proposed application. A current list of SPOCs is included in the application kit.

If SPOCs or tribal governments have any State process recommendations on applications submitted to CDC, they should send them to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Atlanta, GA 30305, no later than 60 days after the application deadline date. The Program Announcement Number and Program Title should be referenced on the document. The granting agency does not guarantee to ''accommodate or explain'' State or tribal process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements. Under these requirements, all community-based non-governmental applicants must prepare and submit the items identified below to the head of the appropriate State and/or local health agency(s) in the program area(s) that may be impacted by the proposed project no later than the receipt date of the Federal application. The appropriate State and/or local health agency is determined by the applicant. The following information must be provided:

1. A copy of the face page of the application (SF 424).

2. A summary of the project that should be titled ''Public Health System Impact Statement'' (PHSIS), not exceeding one page, and include the following:

a. A description of the population to be served;

b. A summary of the services to be provided; and

c. A description of the coordination plans with the appropriate State and/or local health agencies.

If the State and/or local health official should desire a copy of the entire application, it may be obtained from the State SPOC or directly from the applicant.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.263.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it.

Application Submission and Deadline

The original and two copies of the PHS Form 5161–1 (Revised 7/92, OMB Number 0937–0189) must be submitted to Henry Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Mailstop E–13, 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA 30305, on or before July 5, 1995.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications which do not meet the criteria in 1.(a) or 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information, call (404) 332–4561. You will be asked to leave your name, address, and telephone number and will need to refer to Announcement 554. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Oppie Byrd, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Mailstop E–13, 255 East Paces Ferry Road, NE., Room 300, Atlanta, GA 30305, telephone (404) 842–6546.

Programmatic technical assistance may be obtained from Ray Sinclair, Television Production Specialist, DTMD, National Institute for Occupational Safety and Health, MS C–3, Centers for Disease Control and Prevention (CDC), 4676 Columbia Parkway, Cincinnati, OH 45226, telephone (513) 533–8172.

Please refer to Announcement 554 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office,

Washington, DC 20402–9325, telephone (202) 512–1800.

Dated: May 15, 1995.

Diane D. Porter,

Acting Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention (CDC).

References

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[FR Doc. 95–12325 Filed 5–18–95; 8:45 am]

BILLING CODE 4163–19–P

Hospital Infection Control Practices Advisory Committee: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Hospital Infection Control Practices Advisory Committee.

Times and Dates: 8:30 a.m.–5 p.m., June 12, 1995. 8:30 a.m.–4 p.m., June 13, 1995.

Place: CDC, Auditorium A, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The committee is charged with providing advice and guidance to the Secretary, the Assistant Secretary for Health, the Director, CDC, and the Director, National Center for Infectious Diseases (NCID), regarding the practice of hospital infection control and strategies for surveillance, prevention, and control of nosocomial infections in U.S. hospitals and updating of guidelines and other policy statements regarding prevention of nosocomial infections.

Matters to be Discussed: The agenda will include review and discussion of public comments regarding the draft Guideline for Isolation Precautions in Hospitals, review of the status of the draft Guideline for the Prevention of Nosocomial Intravascular Device-Related Infections, review of the status of the proposed first draft of the Guideline for Infection Control in Hospital Personnel, and an update on CDC activities of interest to the committee. Agenda items are subject to change as priorities dictate.

Contract Person for More Information: Marsha A. Jones, Associate Director for Management, Hospital Infections Programs, NCID, CDC, 1600 Clifton Road, NE, Mailstop A–07, Atlanta, Georgia 30333, telephone 404/639–6402.

Dated: May 12, 1995.

Julia M. Fuller,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–12326 Filed 5–18–95; 8:45 am]

BILLING CODE 4163–18–M

National Committee on Vital and Health Statistics: Meeting

Pursuant to Pub. L. 92–463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS).

Times and Dates: 1 p.m.–5 p.m., June 14, 1995. 9 a.m.–5 p.m., June 15, 1995. 9 a.m.–3 p.m., June 16, 1995.

Place: Room 703A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open.

Purpose: The purpose of this meeting is for the committee to consider reports from each NCVHS subcommittee; to receive reports from offices of the Department of Health and Human Services; to receive a report from the Center for Health Policy Studies on a working compendium of core health data sets currently in use or proposed for use for person level and event level in the United States; to discuss the Unified Medical Language System developed by the National Library of Medicine; and to address new business as appropriate.

Contact Person for More Information: Substantive program information as well as summaries of the meeting an a roster of committee members may be obtained from Gail F. Fisher, Ph.D, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone 301/436–7050.

Dated: May 12, 1995.

Julia M. Fuller,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 94–12327 Filed 5–18–94; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 94F–0431]

Asahi Chemical Industry Co., Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Asahi Chemical Industry Co., Ltd., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of two grades of dimethylpolysiloxane with viscosities of 100 centistokes and 50 centistokes, intended for use as release agents in the manufacture of thermoplastic elastomers.

DATES: Written comments on the petitioner's environmental assessment by June 19, 1995.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3091.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B4396) has been filed by Asahi Chemical Industry Co., Ltd., Hibiya-Mitsui Bldg., 1–2, Yuraku-cho 1–Chome, Chiyoda-ku, Tokyo, T100, Japan. The petition proposes to amend the food additive regulations to provide for the safe use of two grades of dimethylpolysiloxane with viscosities of 100 centistokes and 50 centistokes, intended for use as release agents in the manufacture of thermoplastic elastomers.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental

assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before June 19, 1995, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: May 9, 1995.

George H. Pauli,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 95–12296 Filed 5–18–95; 8:45 am]

BILLING CODE 4160–01–F

[Docket No. 95N–0127]

Roussel Corp., et al.; Withdrawal of Approval of 16 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 16 abbreviated new drug applications (ANDA's). The holders of the ANDA's notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Lola E. Batson, Center for Drug Evaluation and Research (HFD–360), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1038.

SUPPLEMENTARY INFORMATION: The holders of the ANDA's listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their request, waived their opportunity for a hearing.

ANDA no.	Drug	Applicant
62–830	Sterile Cefazolin Sodium, U.S.P. (bulk)	Roussel Corp., 95 Chestnut Ridge Rd., P.O. Box 30, Montvale, NJ 07645.
70–662	Diazepam Injection, U.S.P., 5 milligrams (mg)/milliliter (mL)	Fujisawa Pharmaceutical Co., Parkway North Center, Three Parkway North, Deerfield, IL 60015–2548.
80–517	Prednisolone Sodium Phosphate Injection, U.S.P., 20 mg/mL	Steris Laboratories, Inc., 620 North 51st Ave., Phoenix, AZ 85043–4705.
80–702	Vitamin A Palmitate Capsules, EQ 50,000 Units Base	Banner Pharmacaps, Inc., 1111 Jefferson Ave., Elizabeth, NJ 07207.
83–531	Dimenhydrinate Injection, U.S.P., 50 mg/mL	Steris Laboratories, Inc.
83–593	Chlorpheniramine Maleate Injection, U.S.P., 10 mg/mL	Do.
83–948	Vitamin A Palmitate Capsules, EQ 50,000 Units Base	Banner Pharmacaps, Inc.
83–973	Vitamin A Capsules, 50,000 U.S.P. Units	Do.
85–591	Chlorpromazine Hydrochloride Injection, U.S.P., 25 mg/mL	Steris Laboratories, Inc.
86–419	Testosterone Injection, U.S.P., 50 mg/mL	Do.
86–420	Testosterone Injection, U.S.P., 25 mg/mL	Do.
86–468	Procainamide Hydrochloride Extended-release Tablets, U.S.P., 250 mg.	Parke-Davis, Division of Warner-Lambert Co., 2800 Plymouth Rd., Ann Arbor, MI 48105.
86–844	Acetic Acid Otic Solution with Hydrocortisone, 2%/1%	Procter & Gamble Pharmaceuticals, 11370 Reed Hartman Hwy. Cincinnati, OH 45241–2422.
86–845	Acetic Acid Otic Solution, U.S.P., 2%	Do.
87–274	Hydroxyzine Hydrochloride Injection, U.S.P., 25 mg/mL and 50 mg/mL.	Steris Laboratories, Inc.
88–642	Diethylpropion Hydrochloride Tablets, U.S.P., 25 mg	Lemmon Co., 650 Cathill Rd., Sellersville, PA 18960.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82), approval of the ANDA's listed above, and all amendments and supplements thereto, is hereby withdrawn, effective June 19, 1995.

Dated: April 18, 1995.

Murray M. Lumpkin,

Deputy Director, Center for Drug Evaluation and Research.

[FR Doc. 95–12295 Filed 5–18–95; 8:45 am]

BILLING CODE 4160–01–F

Public Health Service

Agency Forms Undergoing Paperwork Reduction Act Review

Each Friday the Public Health Service (PHS) publishes a list of information collection requests under review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the PHS Reports Clearance Office on (202) 690–7100.

The following requests have been submitted for review since the list was last published on May 12.

1. Studies of Adverse Reproductive Outcomes in Female Occupational Groups—New—The reproductive health of a group of female workers exposed to a particular environmental chemical agent will be compared to the reproductive health of a group of working women with no occupational exposure to known or suspected reproductive toxicants. Respondents: Individuals or households; Business or other for-profit. Send comments to Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503.

	No. of respondents	No. of responses per respondent	Avg. burden/response
Women ..	6,200	1	2.85 hours.
Physicians.	1,200	1	.5 hour.

Estimated Annual Burden: 18,250 hours.

2. Infant Feeding Study Puberty Follow-up—0925–0381—Extension, no change—Children from a previous study of health effects of PCBs and DDE are being restudied to determine whether PCBs or DDE affect growth or pubertal development. Information is being collected annually from 431 children and their parents to determine whether there is public health concern about these chemicals in children. Respondents: Individuals or households; Number of Respondents: 862; Number of Responses per Respondent: 1.1; Average Burden per Response: 0.23 hour; Estimated Annual Burden: 219 hours. Send comments to James Scanlon, Office of the Assistant Secretary for Health, Room 737–F, Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201.

3. FDA Recall Regulations—0910–0249—Extension, no change—Recall guidelines set forth procedures to be used by manufacturers and distributors or other responsible persons in notifying or alerting health professionals or other persons of an unreasonable risk of substantial harm to the public's health and describe the procedures used or required by FDA in the recall process. Respondents: Business or other for-profit. Send comments to Shannah Koss, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503.

	No. of respondents	No. of responses/respondents	Avg. burden/response
21 CFR 7.42.	1,294	1	1.8 hours.
21 CFR 7.46/ 7.49.	1,294	1	4 hours.
21 CFR 7.53.	1,294	1	36 hours.
21 CFR 7.55(b).	1,294	1	2 hours.

Estimated Annual Burden: 56,677 hours.

Written Comments and recommendations concerning the proposed information collections should be sent within 30 days of this notice directly to the individual designated.

Dated: May 12, 1995.

James Scanlon,

Director, Data Policy Staff, Office of the Assistant Secretary for Health and PHS Report Clearance Officer.

[FR Doc. 95–12256 Filed 5–18–95; 8:45 am]

BILLING CODE 4160–01–M

Substance Abuse and Mental Health Services Administration

Advisory Committee for Women's Services; Meeting

Pursuant to Pub.L. 92–463, notice is hereby given of the meeting of the Advisory Committee for Women's Services of the Substance Abuse and Mental Health Services Administration (SAMHSA).

The meeting of the Advisory Committee for Women's Services will include a discussion of policy and program issues relating to women's substance abuse and mental health service needs at SAMHSA, including the SAMHSA FY 1996 budget, the SAMHSA Strategic Plan, and on-going women's activities within SAMHSA's Center for Substance Abuse Prevention, Center for Substance Abuse Treatment and Center for Mental Health Services.

A summary of the meeting and/or a roster of committee members may be obtained from: Jennifer B. Fiedelholtz, Executive Secretary, Advisory Committee for Women's Services, Office for Women's Services, Substance Abuse and Mental Health Services Administration, Parklawn Building, Room 13–99, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5184.

Substantive information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Advisory Committee for Women's Services.

Meeting Date: June 12–13, 1995.

Place: Conference Room B, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open: 8:30 a.m. to 5 p.m.

Contact: Jennifer B. Fiedelholtz, Room 13–99, Parklawn Building, Telephone (301) 443–5184.

Dated: May 15, 1995.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 95–12331 Filed 5–18–95; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N–95–1917; FR–3778–N–37]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact David Pollack, room 7256, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1234; TDD number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A–10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to David Pollack at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: Department of the Interior: Lola D. Knight, Property Management Specialist, Department of the Interior, 1849 C Street NW., Mail Stop 552–MIB, Washington, DC 20240; General Services Administration: Norman C. Miller, Acting Assistant Commissioner, General Services Administration, Federal Property Resources Services, 18th and F Street NW., Washington, DC 20405; U.S. Army: Elaine Sims, CECPW–FP, U.S. Army Center for Public Works, 7701 Telegraph Road, Alexandria, VA 22310–3862; (703) 355–3475; Corps of Engineers: Bob Swieconek, Headquarters, Army Corps of Engineers, Attention: CERE–MC, Room 4224, 20 Massachusetts Avenue NW., Washington, DC 20314–1000; (202) 272–1720; U.S. Navy: John J. Kane, Deputy Division Director, Dept. of Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332–2300; (703) 325–0474; (These are not toll-free numbers).

Dated: May 12, 1995.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 05/19/95

Suitable/Available Properties

Buildings (by State)

California

NPS Residence #723
Rancheria Flat Road
El Portal Co: Mariposa CA 95318–
Landholding Agency: Interior
Property Number: 619520026
Status: Excess
Comment: 2210 sq. ft., one story wooden frame residence, off-site use only

Illinois

Defunct Radio Station Site
(Govt Tract B–135), Chain of Rocks Canal Co: Madison IL 62040–
Landholding Agency: COE
Property Number: 319520002
Status: Excess
Comment: 5 bldgs. (48×17, 8×10, 15×18, 6×6, 12×14), need extensive repairs, off-site use only

Kentucky

Bldg. 3104
Fort Campbell
Ft. Campbell Co: Christian KY 42223–
Landholding Agency: Army
Property Number: 219520001
Status: Unutilized
Comment: 1250 sq. ft., one story, off-site use only, most recent use—storage

Massachusetts

17 Single Family Residences
Navy Family Housing, Westover AFB
Chicopee Co: Hampden MA 01022–
Landholding Agency: GSA
Property Number: 549520002
Status: Excess
Comment: various sq. ft., good condition, utilities systems modification

99 Duplex Residences
Navy Family Housing, Westover AFB
Chicopee Co: Hampden MA 01022–
Landholding Agency: GSA
Property Number: 549520003
Status: Excess
Comment: various sq. ft., good condition, utilities systems modification

20 Fourplex Residences
Navy Family Housing, Westover AFB
Chicopee Co: Hampden MA 01022–
Landholding Agency: GSA
Property Number: 549520004
Status: Excess
Comment: various sq. ft., good condition, utilities systems modification

Minnesota

Frame Dwelling—Lake Traverse
Rural Rt. 2
Wheaton Co: Traverse MN 56296–9630
Landholding Agency: COE
Property Number: 319520001
Status: Excess
Comment: 1453 sq. ft., 2-story residence, off-site use only

Virginia

Bristol U.S. Army Reserve Ctr.
100 Piedmont Avenue
Bristol Co: Washington VA 24201–
Landholding Agency: Army
Property Number: 219440317
Status: Unutilized
Comment: 13,460 sq. ft., 2-story plus basement, brick structure, presence of asbestos, needs some rehab.

Unsuitable Properties

Buildings (by State)

California

Bldg. 4147, Downey House
Tract 01–40
Wawona Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 619520024
Status: Unutilized
Reason: Extensive deterioration

Yosemite Village Gas Station/Photo Center
Yosemite Co: Mariposa CA 95389–
Landholding Agency: Interior
Property Number: 619520025
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 31030, 31031 & 31034
Naval Air Weapons Station
China Lake Co: San Bernardino CA 93555–6001
Landholding Agency: Navy
Property Number: 779520015
Status: Excess
Reason: Secured Area Within 2000 ft. of flammable or explosive material

Pennsylvania

NPS Tract #362–09 (6 Bldgs)
Former Lehmer Farm
Marysville Co: Perry PA 17053–
Location: Off Route 850
Landholding Agency: Interior
Property Number: 619520023
Status: Excess
Reason: Extensive deterioration

Land (by State)

Mississippi

Mississippi State Rsch Center

Starkville Co: Oktibbeha MS 39762–
Landholding Agency: GSA
Property Number: 549520010
Status: Excess
Reason: Other
Comment: no legal access GSA Number: 4–A–MS–550
Land—Grenada Lake Dam & Reservoir Project Co: Yalobusha MS
Location: 5 miles southeast of Coffeeville, MS on State Highway 330
Landholding Agency: GSA
Property Number: 549520011
Status: Excess
Reason: Floodway
GSA Number: 4–D–MS–548

[FR Doc. 95–12184 Filed 5–18–95; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–600–04–4110–02 24 1a]

Call for Nominations on Resource Advisory Councils

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to solicit nominations from the public for Bureau of Land Management (BLM) Resource Advisory Councils. These councils provide advice and recommendations to BLM on management of the public lands.

The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by BLM. Section 309 of FLPMA directs the Secretary to select 10 to 15 member citizen-based advisory councils that are established and authorized consistent with the requirements of the Federal Advisory Committee Act (FACA). As required by the FACA, Resource Advisory Council members appointed to the council will reflect a balanced membership representative of the various interests concerned with the management of the public lands and users of the public lands. These include:

- Holders of federal grazing permits, representatives of energy and mining development, timber industry, off-road vehicle use and developed recreation;
- Representatives of environmental and resource conservation organizations, archeological and historic interests, and wild horse and burro groups;
- Representatives of State and local government, Native American tribes, academicians involved in natural sciences, and the public at large.

Individuals may nominate themselves or others. Nominees must be residents of the State or States in which the council has jurisdiction. Nominees will be evaluated based on their education, training, and experience of the issues and knowledge of the geographical area of the Council. Nominees should have demonstrated a commitment to collaborative resource decisionmaking. At least one member of each Resource Advisory Council must be an elected official of general purpose government serving the people within the geographic area for which an advisory council is established. All nominations must be accompanied by letters of reference from represented interests or organizations, a completed background information nomination form, as well as any other information that speaks to the nominee's qualifications.

Resource Advisory Councils will forward advice on public land planning and management issues to the BLM.

BLM State offices will issue press releases providing additional instructions for nominations such as the number and type of councils per State. Nominations for Resource Advisory Councils should be sent to the External Affairs Offices of the appropriate BLM State Offices listed below.

Alaska, 222 W. 7th Avenue #13, Anchorage, Alaska 99513–5076
Arizona, 3707 North 7th Street, Phoenix, Arizona 85014–5080
California, 2800 Cottage Way E–2841, Sacramento, California 95825–1889
Colorado, 2850 Youngfield Street, Lakewood, Colorado 80215–7076
Idaho, 3380 Americana Terrace, Boise, Idaho 83706
Montana, 222 N. 32nd Street, PO Box 36800, Billings, Montana 59107–6800
Nevada, 850 Harvard Way, PO Box 12000, Reno, Nevada 89520–0006
New Mexico, 1474 Rodeo Drive, PO Box 27115, Santa Fe, New Mexico 87502–0115
Oregon/Washington, 1300 N.E. 44th Avenue, PO Box 2965, Portland, Oregon 97208–2965
Utah, 324 South State Street, CFS Finan. Ctr. Bldg., Suite 301, Salt Lake City, Utah 84111–2303
Wyoming, 2515 Warren Avenue, PO Box 1828, Cheyenne, Wyoming 82003

DATES: All nominations should be received by the appropriate BLM State Office by June 23, 1995.

FOR FURTHER INFORMATION CONTACT: Chris Wood, U.S. Department of the Interior, Bureau of Land Management, Room 5558, Washington, DC 20240, 202/208–7013 or Dave Darby, Bureau of Land Management, Montana State Office, 222 N. 32nd Street, PO Box 36800, Billings, Montana 59107–6800, 406/255–2728.

Bruce Babbitt,

Secretary of the Interior.

Resource Advisory Council—Background Information Nomination Form

Name of council(s) to be considered for:

_____

_____

Nominee's Full Name:

_____

Business Address:

_____

_____

Home Address:

_____

_____

Business Phone: ( ) _____

Home Phone: ( ) _____

Occupation/Title:

_____

Education (colleges, degrees, major fields of study):

_____

_____

_____

Career highlights: Significant related experience, civic and professional activities, elected offices (if term expires, prior advisory committee experience or career achievements related to the interest to be represented). Attach additional pages as necessary.

Qualifications

Education, training and/or experience:

_____

_____

_____

Experience or knowledge of the council's geographic area of jurisdiction:

_____

_____

_____

Experience in working with disparate groups to achieve collaborative solutions (e.g., civic organizations, planning commissions, school boards):

_____

_____

_____

_____

Area of Interest To Be Represented

- Holder of Federal grazing permit/lease, transportation/rights-of-way, developed outdoor recreation, off-highway vehicle user, commercial recreation activity, commercial timber industry, energy/mineral development;
- National/regional environmental organization, resource conservation group, dispersed recreational activity, archeological or historical interest, national/regional wild horse/burro groups; and
- Holder of State/county/local elected office, State agency employee in field of

natural resources/land/water, Indian tribes, academicians of natural resource/science, public-at-large.

Attach letters of reference from interests or organizations to be represented (required).

Nominated by: Name, address, and phone number:

Privacy Act Statement

The authority to request this information is contained in 5 U.S.C. 301, the Federal Advisory Committee Act, and Part 1784 of Title 43, Code of Federal Regulations. It is used by the appointing officer to determine education, training, and experience related to possible service on an advisory council of the Bureau of Land Management. If you are appointed as an advisor, the information will be retained by the appointing official as long as you serve. Otherwise, it will be destroyed or returned (if requested) within 60 days following announcement of the council appointments. Completion of this form is voluntary. However, failure to complete any or all items will inhibit fair evaluation of your qualifications, and could result in you (or your nominee) not receiving full consideration for appointment.

Dated: May 16, 1995.

Bruce Babbitt.

[FR Doc. 95–12366 Filed 5–18–95; 8:45 am]

BILLING CODE 4210–84–P

[AZ–025–05–1430–01; AZA 241, AZA 17944, AZA 17945, AZA 27967, AZAR 034355]

Arizona: Termination of Classification and Opening of Lands to Entry in Mohave County, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This Notice will open 67.86 acres to location and entry under the public land laws and general mining laws.

EFFECTIVE DATE: June 19, 1995.

FOR FURTHER INFORMATION CONTACT: Bill Wadsworth, or Joyce Bailey, Realty Specialists, Kingman Resource Area, 2475 Beverly Avenue, Kingman, Arizona 86401–3629, telephone (520) 757–3161.

SUPPLEMENTARY INFORMATION: The following described lands were classified on various dates under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The classifications are no longer needed:

AZA 241. Gila and Salt River Meridian, Arizona

T. 16 N., R. 13 W.,
Sec. 28, W½NE¼NE¼NE¼, SE¼NE¼NE¼NE¼, SE¼NE¼NE¼.
Containing 17.5 acres.

AZA 17944. Gila and Salt River Meridian, Arizona,

T. 25 N., R. 19 W.,
Sec. 10, NW¼SW¼NW¼.
Containing 10 acres.

AZA 17945. Gila and Salt River Meridian, Arizona,

T. 25 N., R. 19 W.,
Sec. 10, that portion of SE¼SW¼NW¼ lying North of Pierce Ferry Road.
Containing 7.54 acres.

AZA 27967. Gila and Salt River Meridian, Arizona,

T. 25 N., R. 19 W.,
Sec. 10, W½SW¼SW¼.
Containing 20 acres.

AZAR 034355. Gila and Salt River Meridian, Arizona,

T. 23 N., R. 18 W.,
Sec. 4, lot 17.
Containing 12.82 acres.

At 9 a.m. on June 19, 1995, the classification on the lands described above will be terminated and the land will be open to location and entry under the United States mining laws and public land laws.

Dated: May 4, 1995.

Mary Jo Yoas,

Chief, Lands and Minerals Operations.

[FR Doc. 95–12346 Filed 5–19–95; 8:45 am]

BILLING CODE 4310–32–P

[NV–942–05–1420–00]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATE: Filing is effective at 10:00 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: John S. Parrish, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), Nevada State Office, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702–785–6541.

SUPPLEMENTARY INFORMATION: The Plats of Survey of the following described lands will be officially filed at the Nevada State Office, Reno, Nevada on July 10, 1995.

The plat representing the survey of a portion of the subdivisional lines, the subdivision of section 4, and the metes-and-bounds survey of a portion of the southerly right-of-way of U.S. Highway No. 50, T. 16 N., R. 34 E., Mount Diablo Meridian, Group No. 712, Nevada, was accepted April 5, 1995.

The plat, in three sheets, representing the dependent resurvey of the Third Standard Parallel North, through a portion of Range 33 East, and the survey of a portion of the east boundary, a portion of the subdivisional lines, and the subdivision of certain sections, Township 15 North, Range 33 East, Mount Diablo Meridian, Nevada, Group No. 714, was accepted April 27, 1995.

The plat, in three sheets, representing the dependent resurvey of the Third Standard Parallel North, through a portion of Range 34 East, and the survey of a portion of the subdivisional lines, and the subdivision of certain sections, Township 15 North, Range 34 East, Mount Diablo Meridian, Nevada, Group No. 714, was accepted April 27, 1995.

The plat representing the dependent resurvey of a portion of the subdivisional lines and the subdivision of sections 32 and 33, Township 16 North, Range 33 East, Mount Diablo Meridian, Nevada, Group No. 714, was accepted April 27, 1995.

These surveys were executed to meet certain administrative needs of the U.S. Navy.

Subject to valid existing rights, the provisions of existing withdrawals and classifications, the requirements of applicable laws, and other segregations of record, those portions of the lands listed above that are original survey are open to application, petition, and disposal, including application under the mineral leasing laws. All such valid applications received on or prior to July 10, 1995, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in order of filing.

The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys will be placed in the open files in the BLM Nevada State Office and will be available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: May 10, 1995.

Robert H. Thompson,

Acting Chief Cadastral Surveyor, Nevada.

[FR Doc. 95–12321 Filed 5–18–95; 8:45 am]

BILLING CODE 4310–HC–P

Fish and Wildlife Service

Convention on International Trade in Endangered Species (CITES) Notification; Recommendations From CITES Secretariat Regarding Prohibitions of Trade in Certain Animal Species From Several Countries

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Information No. 24.

SUMMARY: This is a schedule III notice. This notice supersedes paragraph J of Notice of Information Number 23 published in the **Federal Register** on December 7, 1994 (59 FR 63101), and adds import restrictions to those addressed in Notice of Information Number 23. Wildlife subject to this notice is subject to detention, refusal of clearance or seizure, and forfeiture if imported into the United States. Violators may also be subject to criminal or civil prosecution.

On January 20, 1995, the CITES Secretariat issued Notification to the Parties No. 833 urging Parties to suspend imports of certain animal species from the following twelve countries: Argentina, Azerbaijan, China, Indonesia, Latvia, Lithuania, Madagascar, Peru, Republic of Moldova, Solomon Islands, Ukraine, and the United Republic of Tanzania. That Notification superseded Notification to the Parties No. 800, which was implemented by the Fish and Wildlife Service (Service) in Notice of Information 23. Several of the import suspensions in Notification to the Parties No. 833 were identical to Notification to the Parties No. 800, three were in addition, and one suspension was removed. The restrictions on imports of *Rana tigerina* and *Rana hexadactyla* from India, announced in Notice of Information No. 23, paragraph D, continue in effect even though India is no longer addressed by the Standing Committee recommendations on significant trade in Appendix II species. The Secretariat has indicated that India prohibits the harvesting and export of these species. It recommends that the parties continue to prohibit the import of such species from India. This notice fully implements those changes.

Notification was based on a decision made by the CITES Standing Committee during a meeting held in November, 1994, which asked CITES Party countries to suspend imports in certain animal species from the affected countries, and was in addition to decisions made by the Standing Committee in its meeting on April 21, 1994 (published in the **Federal Register** on December 7, 1994). All of these actions were authorized by CITES Resolution Conference 8.9, adopted at the Eighth Meeting of the Conference of the Parties in Kyoto, Japan, in 1992, which established a procedure for developing remedial actions and calling for implementation by party countries through import suspensions, if voluntary compliance by exporting countries is not satisfactory, and were strongly endorsed in discussions at the Ninth Meeting of the Conference of the Parties in Fort Lauderdale, Florida, in November, 1994.

DATES: This notice is effective on May 19, 1995, and will be effective until further notice. The new import measures announced in this notice shall apply to shipments of wildlife which have a date of export fifteen (15) days after the effective date of this Notice. The import restrictions in Notice of Information No. 23, other than the one lifted herein, remain in effect.

ADDRESSES: Dr. Susan S. Lieberman, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Dr., room 420C, Arlington, VA 22203, regarding Notifications to the Parties, or Frank S. Shoemaker Jr., Special Agent in Charge, Investigations, U.S. Fish and Wildlife Service, Division of Law Enforcement, 4401 N. Fairfax Drive., room 500, Arlington, VA 22203, for enforcement actions.

FOR FURTHER INFORMATION CONTACT: Dr. Susan S. Lieberman, U.S. Fish and Wildlife Service, Office of Management Authority, telephone (703)358–2093, regarding Notifications to the Parties, or Frank S. Shoemaker Jr., Special Agent in Charge, Investigations, U.S. Fish and Wildlife Service, Division of Law Enforcement, telephone (703) 358–1949, for enforcement actions.

SUPPLEMENTARY INFORMATION: Article IV, paragraph 2(a) of the CITES treaty allows commercial and noncommercial trade in species listed in CITES Appendix II. Export permits for such trade may be issued only if a designated Management Authority of the country has determined that the specimens were legally acquired, and if a designated Scientific Authority of that country has advised the Management Authority that the export will not be detrimental to the survival of the species. Article IV, paragraph 3 goes on to require that exports of Appendix II species be limited in any way necessary to ensure that the population level of a species is consistent with that species' role in its ecosystem and that the population level of that species be maintained well above the level where it might qualify for inclusion in Appendix I.

Over the past decade, the CITES party countries have become increasingly concerned that certain Appendix II species are subject to particularly high volumes of trade without sufficient biological data for Scientific Authorities to make the necessary judgments that exports are not detrimental to the species, as required by Article IV. In 1983, CITES parties adopted a resolution at the Fourth Conference of the Parties in Gaborone, Botswana, acknowledging that many parties are not effectively implementing Article IV and thus risk losing the benefits of continued availability of these resources. This resolution, Conf. 4.7, established a project to identify Appendix II species involved in significant levels of international trade, and to develop and negotiate with exporting and importing countries whatever measures were necessary to bring trade down to levels consistent with Article IV.

In 1987, at the Sixth Conference of the Parties in Ottawa, Canada, parties charged the newly established CITES Animals Committee with the task of establishing a list of Appendix II species being significantly affected by trade, reviewing all available information, and formulating remedial measures for these species. The CITES Secretariat coordinated or contracted for studies to develop lists of mammal, bird, and reptile species and collect relevant information about these species, in cooperation with the World Conservation Union (formerly the International Union for the Conservation of Nature and Natural Resources). The Service cooperated with and provided financial support for a number of these studies.

At the Eighth Conference of the Parties in 1992, in Kyoto, Japan, CITES parties adopted a resolution developed by the CITES Animals Committee which recognized that substantial trade in wild-caught animals was still going on contrary to the provisions of Article IV, and that necessary remedial measures were not being properly implemented. This resolution, Conf. 8.9, established a formal process for the Animals Committee to develop remedial measures, including ''zero quotas'' (that is, temporary trade bans) when appropriate; for the Secretariat to communicate these recommendations to the exporting countries; and, where exporting countries do not satisfactorily implement the measures, for the CITES Standing Committee to call on parties to suspend imports of these species from the offending countries until they are in compliance. All of these actions were strongly endorsed in committee and

plenary discussions at the Ninth Meeting of the Conference of the Parties in Fort Lauderdale, Florida, in November, 1994.

During meetings of the Animals Committee between the Eighth and Ninth Meetings of the Conference of the Parties, attended by representatives of the Service, remedial measures were developed and subsequently communicated to exporting countries by the Secretariat. The Standing Committee reviewed reports from the Secretariat of compliance and noncompliance with these remedial measures during three meetings in 1993 and 1994. The Service represented the United States in these meetings, with the Department of State. During the Standing Committee meetings in Geneva, Switzerland, in March, 1994, and Fort Lauderdale, Florida, in November, 1994, the Standing Committee directed the Secretariat to issue a formal notice calling for a suspension of trade in particular Appendix II species from certain CITES parties.

Accordingly, on April 21, 1994, the Secretariat issued Notification to the Parties number 800, calling for a suspension of imports of certain species from twelve countries. Implementation of these restrictions was necessary to stop trade considered to be detrimental to the survival of the species and thus in contravention of the requirements of CITES Article IV. CITES parties failing to implement these trade suspensions would be contributing to the decline of the affected species, and would be subject to formal citation in the CITES Infractions Report and possible censure by the CITES Conference of the Parties.

Pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), the U.S. Fish and Wildlife Service is granted the authority to detain, refuse clearance of, or seize any fish or wildlife or plants that are imported into the United States in violation of CITES. Regulations contained in 50 CFR 14.53(c) indicate that refusal of clearance of imported wildlife is warranted if there are reasonable grounds to believe that documentation for the clearance of such wildlife is not valid. Similarly, regulations contained in 50 CFR 23.12(a)(2) require that all imports of Appendix II wildlife into the United States be accompanied by a valid foreign export permit or re-export certificate, unless an exemption applies. The Service agrees with Notification to the Parties numbers 800 and 833 and believes that any permits issued for the indicated species by the affected countries are not valid because required findings of ''non-detriment'' and/or lawful acquisition have not been credibly demonstrated by the exporting countries in light of the significant trade level in particular Appendix II species.

Notification to the Parties number 833 incorporates all of the recommendations of Notification to the Parties number 800, with the following changes: (1) The trade suspension for ball pythons from Togo is lifted; (2) the trade suspension for the United Republic of Tanzania is amended to include six additional species; (3) a trade suspension is implemented for several species from Madagascar; and (4) a trade suspension is implemented for two butterfly species from Solomon Islands.

The subjects of this notice are as follows:

A. Subject

Togo: ban on imports of specimens of ball python (*Python regius*).

Source of Foreign Law Information

CITES Secretariat Notification to the Parties No. 833, issued on January 20, 1995, calls on Parties to lift the suspension of imports of *Python regius* specimens from Togo.

Action by the Fish and Wildlife Service

Since the publication of Notice of Information No. 23 (59 FR 63101), the Secretariat has received information from the Management Authority of Togo relating to its implementation of the recommendations of the Animals Committee on significant levels of trade in *Python regius.* The Secretariat is satisfied that Togo has initiated the action necessary to implement these recommendations. Therefore, the Standing Committee's recommendation to the Parties to suspend imports of specimens of *Python regius* is hereby withdrawn, and shipments of specimens of *Python regius* may be imported into the United States, directly or indirectly, from Togo, as long as all applicable CITES requirements and Service import requirements are met.

B. Subject

United Republic of Tanzania: ban on imports of specimens of Brown-headed Parrot (*Poicephalus cryptoxanthus*), Brown Parrot (*Poicephalus meyeri*), Red-bellied Parrot (*Poicephalus rufiventris*), Fischer's Turaco (*Tauraco fischeri*), Leopard tortoise (*Geochelone pardalis*), and Sand boa (*Eryx colubrinus*).

This is a Schedule III Notice

Wildlife subject to this notice is subject to detention, refusal of clearance, or seizure and forfeiture if imported into the United States.

Source of Foreign Law Information

CITES Secretariat Notification to the Parties No. 833, issued on January 20, 1995, calls on Parties to suspend imports of Brown-headed Parrot (*Poicephalus cryptoxanthus*), Brown Parrot (*Poicephalus meyeri*), Red-bellied Parrot (*Poicephalus rufiventris*), Fischer's Turaco (*Tauraco fischeri*), Leopard tortoise (*Geochelone pardalis*), and Sand boa (*Eryx colubrinus*) specimens from the United Republic of Tanzania.

Action by the Fish and Wildlife Service

Based on information received, the United Republic of Tanzania has not satisfactorily implemented the recommendations of the CITES Standing Committee. Specifically, the Management Authority of the United Republic of Tanzania must advise the CITES Secretariat of the following: The biological basis for determining that exports of specimens of *Poicephalus cryptoxanthus, Poicephalus meyeri, Poicephalus rufiventris, Geochelone pardalis,* and *Eryx colubrinus* will not be detrimental to the survival of the species; the establishment and level of an annual export quota for *Tauraco fischeri;* the legal protection status of Geochelone pardalis; and the status of wild populations of *Eryx colubrinus* in the United Republic of Tanzania. Therefore, in accordance with the responsibility of the United States under CITES, and effective immediately and until further notice from the U.S. Fish and Wildlife Service, no shipments of specimens of Brown-headed Parrot (*Poicephalus cryptoxanthus*), Brown Parrot (*Poicephalus meyeri*), Red-bellied Parrot (*Poicephalus rufiventris*), Fischer's Turaco (*Tauraco fischeri*), Leopard tortoise (*Geochelone pardalis*), and Sand boa (*Eryx colubrinus*) may be imported into the United States, directly or indirectly, from the United Republic of Tanzania, unless an exemption in CITES Article VII applies. This is in addition to the import prohibitions of Notice of Information No. 23, paragraph L, (59 FR 63101, 63104–05). Furthermore, the Wild Bird Conservation Act of 1992 already prohibits the importation of specimens of Brown-headed Parrot (*Poicephalus cryptoxanthus*), Brown Parrot (*Poicephalus meyeri*), Red-bellied Parrot (*Poicephalus rufiventris*), and Fischer's Turaco (*Tauraco fischeri*) without the required permits being issued by the Service.

C. Subject

Madagascar: ban on imports of specimens of Vasa Parrot (*Coracopsis*

vasa), Chameleons (*Chamaeleo spp.*)(except *Chamaeleo lateralis, Chamaeleo oustaleti, Chamaeleo pardalis* and *Chamaeleo verrucosus*), and Day geckos (*Phelsuma* spp.)(except *Phelsuma laticauda, Phelsuma lineata, Phelsuma madagascariensis,* and *Phelsuma quadriocellata*).

This is a Schedule III Notice

Wildlife subject to this notice is subject to detention, refusal of clearance or seizure, and forfeiture if imported into the United States.

Source of Foreign Law Information

CITES Secretariat Notification to the Parties No. 833, issued on January 20, 1995, calls on Parties to suspend imports of Vasa Parrot (*Coracopsis vasa*), Chameleons (*Chamaeleo* sp.)(except *Chamaeleo lateralis, Chamaeleo oustaleti, Chamaeleo pardalis* and *Chamaeleo verrucosus*), and Day geckos (*Phelsuma* sp.)(except *Phelsuma laticauda, Phelsuma lineata, Phelsuma madagascariensis,* and *Phelsuma quadriocellata*) specimens from Madagascar.

Action by the Fish and Wildlife Service

Based on information received, Madagascar has not satisfactorily implemented the recommendations of the CITES Standing Committee. Specifically, the Management Authority of Madagascar must advise the CITES Secretariat of the following: The biological basis for determining that exports of *Coracopsis vasa, Chamaeleo* sp. (except *Chamaeleo lateralis, Chamaeleo oustaleti, Chamaeleo pardalis,* and *Chamaeleo verrucosus*), and *Phelsuma* sp. (except *Phelsuma laticauda, Phelsuma lineata, Phelsuma madagascariensis,* and *Phelsuma quadriocellata*) will not be detrimental to the survival of the species; the suspension of exports of *Chamaeleo* sp. and *Phelsuma* sp. (except those species previously indicated) pending the establishment of scientifically-based sustainable harvest quotas; evidence that CITES implementation is improving by regular submission of copies of export permits issued; evidence to indicate that export permits will only be issued that indicate the species involved in a given consignment; and evidence to confirm the implementation of a system to verify the identification of specimens of *Chamaeleo* sp. and *Phelsuma* sp. in consignments before they are exported. Therefore, in accordance with the responsibility of the United States under CITES, and effective immediately and until further notice from the U.S. Fish and Wildlife Service, no shipments of specimens of Vasa Parrot (*Coracopsis vasa*), Chameleons (*Chamaeleo* sp.)(except *Chamaeleo lateralis, Chamaeleo oustaleti, Chamaeleo pardalis* and *Chamaeleo verrucosus*), and Day geckos (*Phelsuma* spp.)(except *Phelsuma laticauda, Phelsuma lineata, Phelsuma madagascariensis,* and *Phelsuma quadriocellata*) may be imported into the United States, directly or indirectly, from Madagascar, unless an exemption in CITES Article VII applies. In addition, the Wild Bird Conservation Act of 1992 already prohibits the importation of specimens of Vasa Parrot (*Coracopsis vasa*) without the required permits being issued by the Service.

D. Subject

Solomon Islands: ban on imports of specimens of Bird Wing Butterflies (*Ornithoptera urvillianus*) and (*Ornithoptera victoriae*)

This is a Schedule III Notice

Wildlife subject to this notice is subject to detention, refusal of clearance or seizure, and forfeiture if imported into the United States.

Source of Foreign Law Information

CITES Secretariat Notification to the Parties No. 833, issued on January 20, 1995, calls on Parties to suspend imports of Bird Wing Butterfly (*Ornithoptera urvillianus*) and (*Ornithoptera victoriae*) specimens from the Solomon Islands.

Action by the Fish and Wildlife Service

Based on information received, the Solomon Islands has not satisfactorily implemented the recommendations of the CITES Standing Committee. Specifically, the Management Authority of the Solomon Islands must advise the CITES Secretariat of the following: the biological basis for determining that exports of *Ornithoptera urvillianus* and *Ornithoptera victoriae* will not be detrimental to the survival of the species. Therefore, in accordance with the responsibility of the United States under CITES, and effective immediately and until further notice from the U.S. Fish and Wildlife Service, no shipments of specimens of Bird Wing Butterflies (*Ornithoptera urvillianus*) and (*Ornithoptera victoriae*) may be imported into the United States, directly or indirectly, from the Solomon Islands, unless an exemption in CITES Article VII applies.

Dated: May 15, 1995.

George T. Frampton,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–12371 Filed 5–18–95; 8:45 am]

BILLING CODE 4310–55–P

Minerals Management Service

Outer Continental Shelf, Central and Western Gulf of Mexico Oil and Gas Lease Sales 157 and 161

AGENCY: Minerals Management Service, Interior.

ACTION: Availability of the proposed notices of sale.

Gulf of Mexico Outer Continental Shelf (OCS); Notice of Availability of the Proposed Notice of Sale for proposed Oil and Gas Lease Sales 157 in the Central Gulf of Mexico, and proposed Oil and Gas Lease Sale 161 in the Western Gulf of Mexico. This Notice of Availability is published pursuant to 30 CFR 256.29(c), as a matter of information to the public.

With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed Notice of Sale.

The proposed Notices of Sale of proposed Sales 157 and 161 may be obtained by written request to the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, or by telephone at (504) 736–2519.

The final Notices of Sale will be published in the **Federal Register** at least 30 days prior to the date of the bid opening.

Bid opening is scheduled for early 1996 for proposed Sale 157, and mid-1996 for proposed Sale 161.

Dated: May 2, 1995.

Cynthia Quarterman,

Director, Minerals Management Service.

[FR Doc. 95–12345 Filed 5–18–95; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–365–366 (Preliminary) and 731–TA–734–735 (Preliminary)]

Certain Pasta From Italy and Turkey

AGENCY: International Trade Commission.

ACTION: Institution and scheduling of preliminary countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation Nos. 701–TA–365–366 (Preliminary) and preliminary antidumping investigation Nos. 731–TA–734–735 (Preliminary) under sections 703(a) and 733(a), respectively, of the Tariff Act of 1930, as amended by section 212(b) of the Uruguay Round Agreements Act (URAA), Pub. L. 103–465, 108 Stat. 4809 (1994) (19 U.S.C. 1671b(a) and 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Italy or Turkey of certain pasta,[1] provided for in subheading 1902.19.20 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Governments of Italy and Turkey and are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to sections 702(c)(1)(B) and 732(c)(1)(B), the Commission must complete preliminary countervailing duty and antidumping investigations in 45 days, or in this case by June 26, 1995. The Commission's views are due at the Department of Commerce within 5 business days thereafter, or by July 3, 1995.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207), as amended.

EFFECTIVE DATE: May 12, 1995.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202–205–3180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. Information can also be obtained by calling the Office of Investigations' remote bulletin board system for personal computers at 202–205–1895 (N,8,1).

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on May 12, 1995, by counsel for Borden, Inc., Columbus, OH; Hershey Foods Corp, Hershey, PA; and Gooch Foods, Inc. (Archer Daniels Midland Co.), Lincoln, NE.

Participation in the Investigations and Public Service List

Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these preliminary investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on June 2, 1995, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Debra Baker (202–205–3180) not later than May 30, 1995, to arrange for their appearance. Parties in support of the imposition of countervailing and antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before June 7, 1995, a written brief containing information and arguments pertinent to the subject matter of the investigations. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 01.16(c) and 207.3 of the rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII, as amended by the URAA. This notice is published pursuant to § 207.12 of the Commission's rules.

Issued: May 16, 1995.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 95–12361 Filed 5–18–95; 8:45 am]

BILLING CODE 7020–02–P

[1] Certain pasta consists of non-egg dry pasta for retail sale, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. For purposes of these investigations, retail sales are defined as pasta sold in retail channels, typically in packages of five pounds or less in fiberboard or cardboard cartons or polyethylene or polypropylene bags, of varying dimensions. Excluded from these investigations are non-egg dry pasta sold to the industrial and food service markets. Also excluded from the scope of these investigations are fresh, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white.

INTERSTATE COMMERCE COMMISSION

Notice of Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: J.C. Licht Company,

45 North Brandon Drive, Glendale Heights, Illinois 60139.

2. Wholly owned subsidiaries which will participate in the operations, and State(s) of incorporation: GMK Ltd., GMK Ltd. is an Illinois corporation.

Vernon A. Williams,

Secretary.

[FR Doc. 95–12339 Filed 5–18–95; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–410 (Sub-No. 2)]

Austin Railroad Co., d/b/a Austin & Northwestern Railroad—Discontinuance of Service—Between Smoot and Giddings, in Travis, Bastrop, and Lee Counties, TX

The Commission has found that the public convenience and necessity permit Austin Railroad Co., d/b/a Austin & Northwestern Railroad (AUNW), to discontinue service over 53.5 miles of rail line extending between Smoot at milepost 53.5 and Giddings at milepost 0.0, in Travis, Bastrop, and Lee Counties, TX, subject to the employee protective conditions imposed in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

A certificate will be issued authorizing discontinuance of service unless within 15 days after this publication the Commission finds that: (1) a financially responsible person has offered financial assistance (through subsidy) to enable the rail service to continue; and (2) it is likely that the assistance would fully compensate AUNW.

Any offers of financial assistance must be filed with: (1) the Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue, N.W., Washington, DC 20423; and (2) AUNW's representative, Michael W. Blaszak, Austin & Northwestern Railroad, 211 South Leitch Avenue, LaGrange, IL 60525–2162, no later than 10 days from the date of publication of this notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer: ''Office of Proceedings, AB–OFA.'' Any offer previously made must be remade within the 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 927–5610. [TDD for the hearing impaired: (202) 927–5721.]

Decided: May 12, 1995.

By the Commission, Chairman Morgan, Vice Chairman Owen, and Commissioners Simmons and McDonald.

Vernon A. Williams,

Secretary.

[FR Doc. 95–12340 Filed 5–18–95; 8:45 am]

BILLING CODE 7035–01–P

[Docket No. AB–307 (Sub-No. 2X)]

Wyoming and Colorado Railroad Company, Inc.—Abandonment Exemption—Jackson County, CO

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, pursuant to 49 U.S.C. 10505, exempts from the prior approval requirements of 49 U.S.C. 10903–04 the abandonment by Wyoming and Colorado Railroad Company, Inc. of a 27.03-mile segment of the Coalmont Branch between milepost 67.47, at the Colorado/Wyoming State line, and the end of the line at milepost 94.5, near Walden, in Jackson County, CO, subject to standard labor protective conditions, an historical condition, and environmental conditions.

DATES: Provided no formal expression of intent to file a financial assistance offer has been received, this exemption will be effective on June 18, 1995. Formal expressions of intent to file financial assistance offers [1] under 49 CFR 1152.27(c)(2) must be filed by May 30, 1995. Petitions to stay must be filed by June 5, 1995. Requests for a public use condition must be filed by June 8, 1995. Petitions to reopen must be filed by June 13, 1995.

ADDRESSES: Send pleadings referring to Docket No. AB–307 (Sub-No. 2X) to: (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 1201 Constitution Avenue NW., Washington, DC 20423; and (2) Petitioner's representative: Karl Morell, Suite 1035, 1101 Pennsylvania Avenue NW., Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 927–5660. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Interstate Commerce Commission Building, 1201 Constitution Avenue NW., Room 2229, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927–5721.]

Decided: May 12, 1995.

By the Commission, Chairman McDonald, Vice Chairman Morgan, and Commissioners Simmons and Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 95–12341 Filed 5–18–95; 8:45 am]

BILLING CODE 7035–01–P

[1] See Exempt. of Rail Abandonment—Offers of Finan. Assist., 4 I.C.C.2d 164 (1987).

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that

section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Withdrawn General Wage Determination Decision

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination No. OH950033 Dated Feb. 10, 1995.

Agencies with construction projects pending, to which this wage decision would have been applicable, should utilize Wage Decision OH950024. Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

Modification to General Wage Determinations Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

New York
NY950013 (Feb. 10, 1995)

Volume II

District of Columbia
DC950001 (Feb. 10, 1995)
Maryland
MD950016 (Feb. 10, 1995)
MD950017 (Feb. 10, 1995)
MD950034 (Feb. 10, 1995)
MD950048 (Feb. 10, 1995)
Pennsylvania
PA950004 (Feb. 10, 1995)
PA950006 (Feb. 10, 1995)
Virginia
VA950003 (Feb. 10, 1995)
VA950009 (Feb. 10, 1995)
VA950015 (Feb. 10, 1995)
VA950017 (Feb. 10, 1995)
VA950018 (Feb. 10, 1995)
VA950021 (Feb. 10, 1995)
VA950025 (Feb. 10, 1995)
VA950046 (Feb. 10, 1995)
VA950048 (Feb. 10, 1995)
VA950052 (Feb. 10, 1995)
VA950054 (Feb. 10, 1995)
VA950080 (Feb. 10, 1995)
VA950081 (Feb. 10, 1995)
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VA950085 (Feb. 10, 1995)
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VA950105 (Feb. 10, 1995)
VA950108 (Feb. 10, 1995)
VA950113 (Feb. 10, 1995)

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Florida
FL950015 (Feb. 10, 1995)
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TN950039 (Feb. 10, 1995)

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Michigan
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OH950029 (Feb. 10, 1995)
OH950032 (Feb. 10, 1995)
OH950034 (Feb. 10, 1995)

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TX950096 (Feb. 10, 1995)

Volume VI

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CA950002 (Feb. 10, 1995)
CA950004 (Feb. 10, 1995)
CA950027 (Feb. 10, 1995)
CA950028 (Apr. 7, 1995)
Washington
WA950009 (Feb. 10, 1995)
Wyoming
WY950009 (Feb. 10, 1995)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which included all current general wage determinations for the States covered by each volume. Throughout the remainder

of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, D.C. this 12th day of May 1995.

Alan L. Moss,

Director, Division of Wage Determination.

[FR Doc. 95–12162 Filed 5–18–95; 8:45 am]

BILLING CODE 4510–27–M

Mine Safety and Health Administration

Petitions for Modification

The following parties have filed petitions to modify the application of mandatory safety standards under section 101(c) of the Federal Mine Safety and Health Act of 1977.

1. Black Gem Mining, Inc.

[Docket No. M–95–63–C]

Black Gem Mining, Inc., P.O. Box 1257, Pikeville, Kentucky 41502 has filed a petition to modify the application of 30 CFR 75.1710 (canopies or cabs) to its No. 3 Mine (I.D. No. 15–12303) located in Floyd County, Kentucky. The petitioner proposes to operate its No. 2 (482 S & S Scoop) without a canopy due to 28 feet of substandard conditions and a height of approximately 28 inches to 32 inches. The petitioner states that the mine is located in the Elkhorn No. 3 seam and the height of the seam is very irregular, ranging from 28 inches to 96 inches; that the scoop's primary function is for cleaning and dusting, hauling timbers, brattice blocks, and for keeping the return airways free from obstructions on the No. 1 and No. 2 entry; and that periodically, because of the design of the solid state controls on the scoop, the scoop must be used out of its primary function due to dampness that occurs when not operated frequently rendering the scoop inoperable. The petitioner asserts that application of the standard would result in a diminution of safety to the equipment operator.

2. Shady Lane Coal Corporation

[Docket No. M–95–64–C]

Shady Lane Coal Corporation, P.O. Box 776, Grundy, Virginia 24614 has filed a petition to modify the application of 30 CFR 77.214(a) (refuse piles; general) to its Mine No. 4 (I.D. No. 44–06651) located in Buchanan County, Virginia. The petitioner requests a modification of the standard to allow construction of a refuse fill in an area containing abandoned mine openings. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

3. Genwal Resources, Inc.

[Docket No. M–95–65–C]

Genwal Resources, Inc., P.O. Box 1201, Huntington, Utah 84528 has filed a petition to modify the application of 30 CFR 75.804(a) (underground high-voltage cables) to its Crandall Canyon Mine (I.D. No. 42–01715) located in Emery County, Utah. The petitioner requests a modification of the standard to permit the use of Anaconda Type SHD+GC, Pirelli Type SHD–CENTER–GC, and Tiger Brand Type SHD–CGC flame-resistant cables with a flexible No. 16 (A.W.G.) ground check conductor for the ground continuity check circuit. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

4. Shell Energy Company, Inc.

[Docket No. M–95–66–C]

Shell Energy Company, Inc., P.O. Box 423, Fairmont, West Virginia 26554 has filed a petition to modify the application of 30 CFR 75.364(b)(2) (weekly examination) to its Stacy-Meranda Mine (I.D. No. 46–08086) located in Harrison County, West Virginia. Due to hazardous roof conditions in the No. 3 return air course from 130 feet into the pitt mouth to the No. 7 crosscut, traveling the affected area in its entirety would be unsafe. The petitioner proposes to establish monitor points ''A'' and ''B'' to test for methane and quantity of air in the affected area; to have a certified person examine each monitor point on a weekly basis and record the results in a record book kept on the surface available for inspection by interested persons; to record daily examinations of the water gauge at the main fan in a record book kept on the surface; to cease mining if a 10 percent change occurs in the water gauge on the active section until corrective action has been made; to cease mining if a 10 percent decrease in the quantity of air is measured at either monitor point ''A'' or ''B'' in the active section until corrective action has been made; and to cease mining if an increase of .05 per centum of methane is detected at either monitor point in the active section until corrective action has been made. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

5. Hunt Midwest Mining, Inc., Licausi Services Company, Holland Corporation, Amerigold Corporation, Missouri Rock, Inc., and Parkville Stone Company

[Docket No. M–95–07–M]

Hunt Midwest Mining, Inc., Route 13, 4th Street & Randolph Road, Randolph, Missouri 64161 has filed a petition to modify the application of 30 CFR 49.8 (training for mine rescue teams) to its Randolph Mine (I.D. No. 23–00154) located in Clay County, Missouri. The petitioner is requesting this modification for The Kansas City Mine Rescue Teams and states that the following underground mining companies would also be affected by this modification: Lacausi Services Company, Carefree Quarries (I.D. No. 23–00007) located in Jackson County, Missouri; Holland Corporation, Mine No. 1 (I.D. No. 14–00761) located in Johnson County, Kansas; Amerigold Corporation, Inland Quarries (I.D. No. 14–00159) located in Wyandotte County, Kansas; Missouri Rock, Inc., Missouri Rock, Inc. Mine (I.D. No. 23–01981) located in Clay County, Missouri; and Parkville Stone Company, Parkville Stone Mine (I.D. No. 23–01883) located in Platte County, Missouri. The petitioner requests a modification to allow training requirements to be met at different time frames. The petitioner proposes to conduct training three hours under oxygen four times annually for twelve hours instead of two hours every other month for the same annual hours; and to hold training six times annually with equipment checks monthly, and to reserve two sessions for annual physicals and first aid training. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as would the mandatory standard.

Request for Comments

Persons interested in these petitions may furnish written comments. These comments must be filed with the Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before June 19, 1995. Copies of these petitions are available for inspection at that address.

Dated: May 11, 1995.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 95–12347 Filed 5–18–95; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Request for copies must be received in writing on or before July 3, 1995. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, College Park, MD 20740. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending:

1. Department of the Air Force (N1–AFU–95–6). Routine records of closing bases.

2. Department of Commerce, International Trade Administration (N1–489–94–1). Records of the Industrial Trade Staff.

3. Department of Housing and Urban Development (N1–207–94–4). Revision of schedule for Community Planning and Development records.

4. Department of Justice (N1–60–95–3). Autopen request file.

5. Department of State, Bureau of Intelligence and Research (N1–59–95–9). Routine, facilitative, and duplicative records relating to reporting and research.

6. Department of State, Bureau of Economic and Business Affairs (N1–59–94–22, –23, and –24). Routine, facilitative, and duplicative records relating to international finance and development affairs.

7. Department of State, Bureau of Economic and Business Affairs ((N1–59–94–29, –34, and –35). Routine, facilitative, and duplicative records relating to energy, sanctions, and commodities.

8. Department of the Treasury, Office of Thrift Supervision (N1–195–95–1). Records of the Office of the Chairman, Federal Home Loan Bank Board, determined during archival processing to lack sufficient archival value to warrant permanent retention by the National Archives.

9. Animal Plant Health Inspection Service (N1–463–95–1). Routine administrative files relating to pilot and aircraft certifications.

10. Animal Plant Health Inspection Service (N1–463–95–2). Copies of patent applications.

11. Defense Contract Audit Agency ((N1–372–95–2). Agency Management Information System reports.

12. Defense Nuclear Agency (N1–374–95–2). Base operations support contractor records of non-program facilitative and routine base maintenance functions at Johnston Atoll.

13. Defense Nuclear Agency (N1–375–95–4). Routine physical security inspection reports.

14. Federal Communications Commission (N1–173–94–1). Radio frequency device authorizations.

15. Federal Communications Commission (N1–173–94–2). Revision of Licensing Division records schedule.

16. National Reconnaissance Office (N1–525–95–1). Comprehensive records disposition schedule which provides for disposal of routine and facilitative records. Records that document overall policies, plans, procedures, and significant activities are permanent.

17. Social Security Administration (N1–47–95–1, –2, –3). Reduction in retention period for Supplemental Security Income Claims Folders, Disability Insurance Claims Folders, and Retirement and Survivors Claims Folders.

18. Office of the Secretary of Defense (N1–330–95–4). Reduction in retention period of certain laboratory records previously scheduled as temporary.

19. National Aeronautics and Space Administration (N1–255–95–1). Unidentifiable flight engineering test data, 1961–1972.

Dated: May 11, 1995.

Trudy Huskamp Peterson,

Acting Archivist of the United States.

[FR Doc. 95–12324 Filed 5–18–95; 8:45 am]

BILLING CODE 7515–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Mathematical Sciences

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Special Emphasis Panel in Mathematical Sciences.

Date and time: June 3, 1995, 8:30 am to 5:00 pm.

Place: Office of the Conference Board of the Mathematical Sciences, 1529 Eighteenth Street N.W., Washington, DC 20036.

Type of Meeting: Closed.

Contact Person: Dr. Keith Crank, Program Officer, Room 1025, National Science

Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1885.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate NSF–CBMS Regional Research Conferences in Mathematical Sciences proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: May 15, 1995.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 95–12297 Filed 5–18–95; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8027]

Sequoyah Fuels Corporation

[License No. SUB–1010]

Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by the ''Native Americans for a Clean Environment's Petition for an Order Requiring Sequoyah Fuels Corporation to File a Final Site Characterization Plan and for an Order Forbidding Transfer of SFC Property Prior to Obtaining a License Amendment,'' dated March 11, 1995, the Native Americans for a Clean Environment (NACE or Petitioner) request that the Nuclear Regulatory Commission take action with regard to Sequoyah Fuels Corporation (SFC or Licensee).

Petitioner requests that the NRC: (1) Reverse the NRC staff's decision to permit SFC to proceed with site characterization without submitting a revised Final Site Characterization Plan (SCP) by issuing an order requiring SFC to submit a revised Final SCP, or at the minimum a Confirmatory Action Letter requiring SFC to submit a Final SCP by a date certain; (2) issue an order forbidding SFC, Sequoyah Fuels International, Sequoyah Holding Corporation, or any other associated corporation that holds title to property under License SUB–1010, from transferring any interest in any of its property before SFC applies for and receives a license amendment permitting such a transfer; (3) before issuing any such license amendment, find reasonable assurance that any entity acquiring an interest in the SFC property fully understands the nature of the liabilities and responsibilities it is undertaking for cleanup and long-term care of the site and that it has the financial capability to carry out those responsibilities; and (4) obtain or perform a title search of all property used in connection with the SFC license in order to clarify the identity and ownership of all property subject to License SUB–1010.

As the bases for its requests, Petitioner states that: (1) Given the serious deficiencies found by the staff in its review of the SFC Draft SCP, the NRC staff illegally and improperly excused SFC from its obligation to submit a final SCP, in violation of the Timeliness in Decommissioning Rule, the NRC's Action Plan to Ensure Timely Cleanup of SDMP Sites, the NRC's December 29, 1992, Demand for Information to SFC, the Memorandum of Understanding between the NRC and the Environmental Protection Agency, and commitments by the NRC to NACE that SFC would be required to demonstrate how it would sample all potentially contaminated areas in a site characterization plan; (2) SFC is presenting a ''Trust Indenture'' to several towns and the county of Sequoyah for the creation of an industrial park; (3) the Trust Indenture depicts the 1400 acres of land subject to License SUB–1010 as the candidate area for the industrial park, but neither the Trust Indenture nor the associated documents refers to actual or potential contamination of the site due to groundwater migration from the contaminated processing area, of effluent streams and ditches, or of the Carlisle School, the need to obtain a license amendment before transferring this property, the transferee's potential liability for cleanup of the property, or that SFC has been ordered by NRC and EPA to characterize the extent of contamination on this property; (4) the 1400 acres subject to the Trust Indenture surrounds the 85-acre processing area SFC has identified as the major focus of its site characterization and cleanup effort; and (5) SFC has made conflicting representations regarding the size of the ''facility'' or ''site'' to the NRC and in the Trust Indenture.

The Petition is being evaluated pursuant to 10 CFR 2.206 of the Commission's regulations. The Petition has been referred to the Director of the Office of Nuclear Material Safety and Safeguards. As provided by § 2.206, appropriate action will be taken on this Petition within a reasonable time.

A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street NW., Washington, DC 20555.

Dated at Rockville, Maryland this 10th day of May, 1995.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 95–12342 Filed 5–18–95; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–277 and 50–278]

Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing

In the matter of Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, Atlantic City Electric Company, Peach Bottom Atomic Power Station, Units 2 and 3.

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–44 and DPR–56, issued to the Philadelphia Electric Company (PECO, the licensee), for operation of the Peach Bottom Atomic Power Station, Units 2 and 3 (Peach Bottom, PBAPS), located in York County, Pennsylvania.

The proposed amendment, requested by the licensee in a letter dated September 29, 1994, as supplemented by letters dated March 3, 1995 and March 30, 1995, would represent a full conversion from the current Technical Specifications (TS) to a set of TS based on NUREG–1433, ''Standard Technical Specifications, General Electric Plants, BWR/4,'' Revision O, September 1992. NUREG–1433 has been developed through working groups composed of both NRC staff members and the BWR/4 owners and has been endorsed by the staff as part of an industry-wide initiative to standardize and improve TS. As part of this submittal, the licensee has applied the criteria contained in the Commission's Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors of July 22, 1993 to the current Peach Bottom Technical Specifications, and, using NUREG–1433 as a basis, developed a proposed set of improved TS for PBAPS.

The licensee has categorized the proposed changes to the existing TS into four general groupings. These groupings are characterized as administrative changes, relocated changes, more

restrictive changes, and less restrictive changes.

Administrative changes are those that involve restructuring, interpretation and complex rearranging of requirements and other changes not substantially revising an existing requirement. The reformatting, renumbering and rewording process reflects the attributes of NUREG–1433 and do not involve technical changes to the existing TS. Such changes are administrative in nature and do not impact initiators of analyzed events or assumed mitigation of accident or transient events.

Relocated changes are those involving relocation of requirements and surveillances for structures, systems, components or variables that do not meet the criteria for inclusion in TS. The licensees applications on the screening criteria is described in that portion of their September 29, 1994 application titled ''Application of Selection Criteria to the Peach Bottom Atomic Power Station TS.'' The affected structures, systems, components or variables are not assumed to be initiators of analyzed events and are not assumed to mitigate accident or transient events. The requirements and surveillances for these affected structures, systems, components or variables will be relocated from the TS to administratively controlled documents. Changes made to these documents will be made pursuant to 10 CFR 50.59 or other appropriate control mechanisms. In addition, the affected structures, systems, components or variables are addressed in existing surveillance procedures which are also subject to 10 CFR 50.59. These proposed changes will not impose or eliminate any requirements.

More restrictive changes are those involving more stringent requirements for operation of the facility. These more stringent requirements do not result in operation that will alter assumptions relative to mitigation of an accident or transient event. The more restrictive requirements will not alter the operation of process variables, structures, systems and components described in the safety analyses.

Less restrictive changes are those where existing requirements are relaxed or eliminated, or new flexibility is provided.

In addition to the changes described above, the licensee proposed certain changes to the existing technical specifications that deviated from the standard technical specifications in NUREG–1433. Each of these additional proposed changes is described below.

The licensee proposed required actions in the event the standby liquid control system boron solution concentration exceeds 9.82% weight (proposed specification 3.1.7, Condition A). Under this condition, the licensee proposed to verify that the concentration and temperature of the boron in solution is within certain limits within 8 hours. NUREG–1433 requires restoration of boron concentration within limits within 72 hours.

The licensee proposed to relocate response time testing requirements for the reactor protection system out of the technical specifications to plant procedures. Existing Peach Bottom technical specifications and NUREG–1433 have response time testing requirements for the reactor protection system.

The licensee proposed a reactor core isolation cooling compartment and steam line area high temperature instrument calibration frequency of once per 24 months (proposed surveillance requirement 3.3.6.1.5). This is less restrictive than the existing technical specifications and it is a deviation from NUREG–1433, which would impose a calibration frequency of once per 92 days.

The licensee proposed several relaxations of the current technical specification requirements for loss of AC power instrumentation. The licensee proposed a 30-day completion time for actions associated with an inoperable degraded voltage-high function and a degraded voltage-non-LOCA function (proposed specification 3.3.8.1, Action B.2). In addition, the licensee proposed a 2-hour delay for actions required for inoperable loss of power channels provided the automatic emergency diesel generator initiation and automation bus transfer functions that remain are for the remaining emergency buses (proposed Note 2 to surveillance requirement Table 3.3.8.1). The licensee also proposed to delete channel calibration surveillance requirements for the emergency bus loss of voltage function (proposed specification Table 3.3.8.1–1). The proposed changes are less restrictive than the existing Peach Bottom technical specification and are deviations from the requirements in NUREG–1433.

The licensee proposed to modify existing requirements for the containment atmospheric dilution system nitrogen storage tank levels (proposed surveillance requirement 3.6.1.3.1). The licensee proposed to change the required level from 2500 gallons to 16 inches of water. This is less restrictive than the existing Peach Bottom technical specifications and is a deviation from the requirements of NUREG–1433 because NUREG–1433 does not have requirements for containment atmospheric dilution system nitrogen storage tank levels.

The licensee proposed to extend the suppression pool spray header air test from once per 5 years to once per 10 years (proposed surveillance requirement 3.6.2.4.2). NUREG–1433 implements a flow test to verify the spray header is unobstructed.

The licensee proposed a 14-day completion time to restore single inoperable emergency cooling tower fan (proposed specification 3.7.3, Condition A). The existing technical specification do not have specific requirements for a single inoperable fan. NUREG–1433 does not have requirements for the emergency cooling tower.

The licensee proposed required actions for the DC electrical distribution system. The existing technical specifications for one Peach Bottom unit do not have explicit action requirements associated with the inoperability of DC systems in the opposite unit. The proposed specifications include action requirements associated with the inoperability of DC systems in the opposite Peach Bottom unit because the DC systems are shared between the two Peach Bottom units. The licensee proposed a 7-day completion time to restore the DC subsystem if the opposite unit DC subsystem is inoperable due to performance of a battery service or discharge test (proposed specification 3.8.4, Condition A). The licensee also proposed a 12-hour completion time to restore the DC subsystem if the opposite unit DC subsystem is rendered inoperable for reasons other than performance of a battery service or discharge test (proposed specification 3.8.4, Condition B). NUREG–1443 does not contain requirements associated with the DC subsystems of shared units.

The licensee proposed an extended surveillance frequency for the DC systems batteries if the battery was on a equalizing charge during the previous one day (proposed surveillance requirements 3.8.4.1 and 3.8.6.1). The existing Peach Bottom specifications and NUREG–1433 do not allow for this extension.

The licensee proposed to allow the Senior Manager of Operations to have previously held a senior reactor operator license (proposed specification 5.2.2.f). The existing Peach Bottom specifications and NUREG–1433 require the Senior Manager of Operations to hold a senior reactor operator license.

The licensee proposed requirements for the control of high radiation areas (proposed specification 5.7). The proposed specifications are based on

revisions to 10 CFR part 20. The proposed specifications are modifications of existing Peach Bottom specifications and NUREG–1433 requirements.

The licensee proposed changes to the existing environmental technical specifications (proposed Appendix B to the facility operating license). The proposed changes reformat and renumber existing Appendix B requirements into changes consistent with the specifications in Appendix A. NUREG–1433 does not address Appendix B environmental specifications.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By June 19, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Request for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the State Library of Pennsylvania, (REGIONAL DEPOSITORY) Government Publications Section, Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the result of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in providing the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitation in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to John F. Stolz, Director, Project Directorate I–2: petitioner's name and telephone number, date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to James W. Durham, Senior Vice President and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, Pennsylvania, 19101, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for a hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated September 29, 1994, as supplemented by letters dated March 3, 1995 and March 30, 1995, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the State Library of Pennsylvania, (Regional Depository) Government Publications Section, Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, Pennsylvania 17105.

Dated at Rockville, Maryland, this 12th day of May 1995.

For the Nuclear Regulatory Commission.

David H. Moran,

Acting Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 95–12343 Filed 5–18–95; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35716; File No. SR–BSE–95–07]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Boston Stock Exchange, Inc., Relating to Its Competing Specialist Pilot Program

May 15, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on May 5, 1995, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. On May 9, 1995, the BSE filed Amendment No. 1 with the Commission.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The BSE seeks to extend the current pilot program for competing specialists on its floor until October 2, 1995.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the current pilot program for competing specialists until October 2, 1995. The program currently provides for up to three competing specialists in a stock on the floor of the Exchange. The pilot program provides for both a regular specialist and a competing specialist(s) in a stock, whereas currently there is only one specialist in that stock. Orders can be directed to either specialist based on each customer's independent decision,[4] but all orders in that stock will be executed in accordance with strict time priority. Once all limits at a price level are depleted, each specialist is responsible for the market orders directed to them specifically.

All limit orders entrusted to each competing specialist and the regular specialist will be represented and executed strictly according to time priority as to receipt of the order in the BEACON System. Thus incoming market and marketable limit orders will automatically execute against limit orders on the books according to the order in which the limit orders were received in the system.[5] The regular specialist will be responsible for updating quotations; thus all competitors must communicate their markets to the regular specialist and be responsible for their portion of the published bid and/or offer. Openings and reopenings shall be coordinated through the regular specialist to ensure they are unitary. All ITS activity must be cleared through the regular specialist and only the regular specialist can input quotations to reflect the Boston market. Thus to all other markets in the National Market System, there will be only one Boston market. Trading halts will also be coordinated through the regular specialist and any trading halt will apply to all competitors in a stock.

The Exchange has adopted procedures to provide guidelines for the pilot program participants and for the Exchange in its administration of the program.[6] Any new competitive situation will be reviewed by the Exchange for the duration of the pilot program. Reports of specialists' dealings have been reviewed on a daily basis since the inception of the program and periodic reports have been provided to the Commission for review. In addition, the program was fully integrated into the Exchange's specialist performance evaluation program beginning in December 1994.

Certain technical changes necessitated by the proposed pilot program have been made to Chapter XV § 6 regarding the specialist's book to permit the competing specialist to see a summary of bids and offers at each price level in the subject stock.[7] This will enable all competitors in a stock to know the combined market in that stock.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(5) of the Act in that it furthers the objectives to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

[3] *See* letter from Karen Aluise, BSE, to Glen Barrentine, SEC, dated May 9, 1995. In Amendment No. 1 the BSE removed its request to expand the pilot program by the number of securities, as well as the number of specialists per issue. The limitations imposed in the original approval order will remain through the extension (maximum of three specialists per stock; each specialist can compete in a maximum of 20 stocks). Thus, during the pilot program, the total number of stocks subject to competition will not exceed 360.

[4] Non-specifically directed orders would be routed to the regular specialist.

[5] The BEACON System will view all of the limits on the various books as one centralized book for purposes of order execution.

[6] *See* Securities Exchange Act Release No. 34078 (May 18, 1994), 59 FR 27082 (May 25, 1994); BSE Rules Ch. XV §§ 18 and 6(iii).

[7] The Commission notes that this change was made in the initial pilot and will carry forward through the extension being approved herein.

Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the BSE. All submissions should refer to File No. SR–BSE–95–07 and should be submitted by [insert date 21 days of publication].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the BSE's proposal to extend its preferencing pilot program to October 2, 1995 is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[8] in that it will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system. The pilot is extended under the same conditions set out in the original pilot approval order.[9]

The Commission notes that pursuant to its original pilot approval order, the BSE was required to submit quarterly data reports and a report analyzing such data.[10] The BSE has submitted data to the Commission. In addition, the Commission has received extensive commentary on the Cincinnati Stock Exchange's (''CSE'') request for permanent approval of its preferencing pilot[11] that present issues similar to those raised by the BSE pilot. In sum, the Commission is reviewing the comments and data submitted thus far, and believes that due to the complexity of the issues, and significant amount of data, the preferencing pilot should be extended to provide the Commission with adequate time to more thoroughly evaluate the data and the issues involved in the filing for permanent approval.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval of the proposal is appropriate in order to avoid an unnecessary interruption to the pilot while allowing the Commission to continue to evaluate the data.

It is therefore ordered, pursuant to Section 19(b)(2)[12] that the proposed rule change is hereby approved, and the competing specialist pilot is extended through October 2, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–12312 Filed 5–18–95; 8:45 am]

BILLING CODE 8010–01–M

[8] 15 U.S.C. 78f(b)(5) (1988).

[9] The BSE competing specialist program is limited by the following: (1) a competing specialist may preference up to a maximum of 20 stocks; (2) the number of competitors in any given stock is limited to three (one regular specialist and two competing specialists); (3) no payment for order flow; and (4) no index arbitrage. The Commission also notes that prior to the original approval order the BSE represented that, during the pilot program, the total number of stocks subject to competition will not exceed 360. *See* Securities Exchange Act Release No. 34078 (May 18, 1994), 59 FR 27082 (May 25, 1994).

[10] *See* Securities Exchange Act Release No. 34078 (May 18, 1994), 59 FR 27082 (May 25, 1995).

[11] *See*, File No. SR–CSE–95–03, Securities Exchange Act Release No. 35448 (March 7, 1995), 60 FR 13493 (March 13, 1995). The comments received on this proposal are available from the CSE or the Commission. (*See* Section III, *supra*.)

[12] 15 U.S.C. 78s(b)(2) (1988).

[13] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] 17 CFR 240.19b–4 (1994).

SECURITY AND EXCHANGE COMMISSION

[Release No. 34–35717; File No. SR–CSE–95–06]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Cincinnati Stock Exchange, Inc. Relating to the Preferencing of Public Agency Market and Marketable Limit Orders by Approved Dealers and Other Proprietary Members

May 15, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 1, 1995, the Cincinnati Stock Exchange, Inc. (''CSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Cincinnati Stock Exchange, Inc. (''CSE'' or ''Exchange'') hereby proposes to extend the CSE's pilot program regarding preferencing until October 2, 1995. The pilot was initially approved by the Commission on February 7, 1991 and is currently extended until May 18, 1995. (Securities Exchange Act Release No. 28866).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the rule filing is to extend the existing pilot program of the Exchange relating to the preferencing of public agency market and marketable limit orders by approved dealers and other proprietary members until October 2, 1995. The Commission originally approved the pilot on February 7, 1991, (Securities Exchange Act Release No. 28866, 56 FR 5854 (Feb. 13, 1991)). The Commission has subsequently extended the pilot several times. (Securities Exchange Act Release Nos. 29524 (Aug. 5, 1991), 56 FR 38160; 30353 (Feb. 7, 1992), 57 FR 5918; 31011 (Aug. 7, 1992), 57 FR 38704; 32280 (May 7, 1993), 58 FR 28422; 33975 (April 28, 1994), 59 FR 23243 and 34493 (Aug. 5, 1994)). The Commission staff has requested the Exchange seek a limited extension until the October date.

2. Statutory Basis

The exchange believes that the proposed rule change is consistent with Sections 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it will promote just and equitable principles of trade and remove impediments to and perfect the mechanisms of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CSE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The CSE solicited comments on the filing from other Intermarket Trading System participants. None were received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to File No. SR–CSE–95–06 and should be submitted by [insert date 21 days from date of publication].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the CSE's proposal to extend its preferencing pilot program to October 2, 1995 is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[3] in that it will promote just and equitable principles of trade and remove impediments to and perfect the mechanism of a free and open market and a national market system. The pilot is extended under the same conditions set out in the prior pilot approval orders.[4]

The pilot modifies CSE's priority rules in order to permit one designated dealer to step ahead of another, at the same or better price, when trading with its own customer order. Public orders in the CSE book continue to have priority over all preferencing interest.

The Commission notes that pursuant to its most recent pilot extension approval order, the CSE was required to submit quarterly data reports and a report analyzing such data.[5] The CSE has submitted data to the Commission. In addition, the Commission has received extensive commentary on the CSE's request for permanent approval of its preferencing pilot, noticed for comment on March 13, 1995.[6] The Commission is currently reviewing the comments and data submitted thus far, and believes that due to the complexity of the issues, the extensive comment letters, and the significant amount of data, the preferencing pilot should be extended to provide the Commission with adequate time to more thoroughly evaluate the data and the issues involved in the filing for permanent approval.

The Commission finds good cause for approving the proposed rule change prior the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission believes that accelerated approval of the proposal is appropriate in order to avoid an unnecessary interruption to the existing pilot, while allowing the Commission to continue to evaluate the data and comments submitted in response to the solicitation of comments published in March.

It is therefore ordered, pursuant to Section 19(b)(2)[7] that the proposed rule change is hereby approved, and the preferencing pilot is extended through October 2, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–12313 Filed 5–18–95; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78f(b)(5) (1988).

[4] The CSE preferencing program is limited by the following: (1) A designated dealer may preference up to a maximum of 350 stocks; (2) no payment for order flow; (3) no index arbitage. *See* letter from Fredrick Moss, Chairman of the Board of Trustees, CSE, to Richard G. Ketchum, Director, Division of Market Regulation, Commission, dated November 14, 1990.

[5] *See* Securities Exchange Act Release No. 34493 (Aug. 5, 1994), 59 FR 41531 (Aug. 12, 1995).

[6] *See,* File No. SR–CSE–95–03, Securities Exchange Act Release No. 35448 (March 7, 1995), 60 FR 13493 (March 13, 1995). The comments received on this proposal are available from the CSE or the Commission. (*See* Section III, *supra.*)

[7] 15 U.S.C. 78s(b)(2) (1988).

[8] 17 CFR 200.30–3(a)(12) (1994).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–35715; File No. S7–27–93]

Consolidated Tape Association; Order Granting Approval of Seventeenth Substantive Amendment to the Restated Consolidated Tape Association Plan and Twenty-First Substantive Amendment to the Consolidated Quotation Plan

May 12, 1995.

I. Introduction

On March 9, 1995, the Consolidated Tape Association (''CTA'') and consolidated Quotation (''CQ'') Plan Participants filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') amendments to the Restated CTA Plan and CQ Plan pursuant to Rule 11Aa3–2 of the Securities Exchange Act of 1934 (''Act''). Notice of the filing appeared in the **Federal Register** on April 3, 1994.[1] No comment letters were received in response to the Notice. For the reasons discussed below, the Commission has determined to approve the filing.

II. Description

The amendments change the procedure for allocating high speed line access fee revenues between ''Network A'' and ''Network B'' under each plan. Under the new procedure,[2] the participants will apply ''relative message usage percentages'' to the allocation of high speed line revenues between networks retroactively, beginning with the period commencing January 1, 1994.

The amendments also eliminate the requirements that the participants set the high speed line access fee at a level designed to recover the costs of making the high speed line available, and set indirect high speed line access fees at a level that equals one-half of the direct

[1] Securities Exchange Act Release No. 35543 (March 28, 1995), 60 FR 16901.

[2] A description of the new procedure was included in the Notice of Filing of Amendment (*see,* note 1, *supra*), and is incorporated by reference herein.

access fees. The actual fees currently in effect, however, are not changed.

Prior to this amendment, the participants, under each plan, imposed on subscribers, vendors, computer input users and others one combined high speed line access fee for access to both Network A and Network B market data. These amendments will change the current fee structure and replace it with a more appropriate and equitable measure that reflects each network's relative usage of the plans' systems.

Additionally, these amendments will eliminate the current requirements to: (a) Set high speed line access fees at levels that allow the participants to recover the operating expenses that the Processor incurs in making the high speed line available, and (b) set indirect high speed line access fees at a level that equals one-half of the direct access fees. Those requirements were established over twenty years ago. Today's digital data feed and other technologies make high speed lines cheaper and easier to access necessitating a change in the manner in which the participants determine high speed line access fees. The actual fees, however, will not be amended at this time.

III. Discussion

The Commission has determined that the CTA/CQ Plan amendments are consistent with the Act. Rule 11Aa3–2(c)(2) under the Act provides, *inter alia,* that the Commission approve an amendment to an effective National Market System plan if it finds that the amendment is necessary or appropriate in the public interest, for the protection of investors and maintenance of fair and orderly markets, to remove impediments to and perfect the mechanisms of a National Market System, or otherwise in furtherance of the purposes of the Act. In making such a determination, the Commission must examine Section 11A of the Act and Rule 11Aa3–2(b)(5), promulgated thereunder. Rule 11Aa3–2(b)(5)(ii) provides that every national market system plan, or any amendment thereto, shall provide a description of the method by which any fees or charges collected on behalf of all of the participants in connection with access to, or use of, any facility contemplated by the plan or amendment will be determined and imposed (including any provision for distribution of any net proceeds from such fees or charges to the participants) and the amount of such fees or charges.

The CTA and CQ Plan Participants have properly described the determination, imposition and distribution of the fees and charges that are the subject of the proposed amendments. Furthermore, the amendments will remove impediments to and perfect the mechanisms of a National Market System by instituting a more equitable line access fee that reflects actual usage, and by removing certain requirements concerning the calculation of line access fees that are no longer appropriate in light of technological advances. Accordingly, the Commission finds that the adoption of the delineated changes for allocating high speed line access fees for both Plans, and the elimination of the above discussed requirements concerning the recovery of costs for making high speed line available, to be consistent with the Act and the Rules thereunder.

IV. Conclusion

For the reasons discussed above, the Commission finds that the proposed amendments to the CTA and CQ Plans are consistent with the Act, particularly Rules 11Aa3–2(c)(2) and 11Aa3–2(b)(5)(ii) thereunder.

It is therefore ordered, pursuant to Section 11A of the Act, that the amendments to the CTA and CQ Plans be, and hereby are, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–12311 Filed 5–18–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–26290]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

May 12, 1995.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 5, 1995 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

CINergy Corp. et al. (70–8587)

CINergy Corp. (''CINergy''), 139 East Fourth Street, Cincinnati, Ohio 45202, a registered holding company, and certain of its subsidiaries, including CG&E Resource Marketing, Inc. (''Resource Marketing''), 139 East Fourth Street, Cincinnati, Ohio 45202, filed an application-declaration under sections 2(a)(8), 6, 7, 9(a), 10, 12(b), 12(f) and 13 of the Public Utility Holding Company Act of 1935, as amended (''Act''), and rules 40, 43, 45, 53, 54, and 80–95 thereunder. The Commission issued a notice of the filing on April 14, 1995 (HCAR No. 26273).

Resource Marketing holds a one-third general partnership interest in U.S. Energy Partners, a gas marketing partnership with Public Service Electric & Gas Company. CINergy states that it does not ''control'' U.S. Energy Partners or possess a ''controlling influence'' over its management or policies. In addition to the matters discussed in the notice referred to above, CINergy also seeks in this filing an order of the Commission declaring that U.S. Energy Partners is not a ''subsidiary company'' of CINergy within the meaning of section 2(a)(8) of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–12314 Filed 5–18–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21065; 811–7300]

Third Avenue Series Funds, Inc.; Notice of Application

May 12, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Third Avenue Series Funds, Inc.

[3] 17 CFR 200.30–3(a)(27).

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring it has ceased to be an investment company.

FILING DATE: The application was filed on March 10, 1995, and an amendment thereto on May 5, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 6, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 767 Third Avenue, New York, New York 10017–2023.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, diversified management investment company, organized as a corporation under the laws of Maryland. On December 11, 1992, applicant registered under the Act and filed a registration statement under the Securities Act of 1933. Applicant's initial registration statement was not declared effective and applicant did not proceed with the registration statement.

2. Applicant has no assets, liabilities, or shareholders.

3. Applicant has fewer than one hundred persons who are beneficial owners of its shares and is not making and does not presently propose to make an initial public offering of its securities.

4. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs. After the SEC issues an order declaring that applicant has ceased to be an investment company, applicant intends to file Articles of Dissolution with the Maryland Department of Assessments and Taxation in Baltimore, Maryland.

For the SEC, by the Division of Investment Management, under delegated Authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–12315 Filed 5–18–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21064; 811–5692]

Value Line U.S. Government Securities Money Market Fund; Notice of Application

May 12, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Value Line U.S. Government Securities Money Market Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring it has ceased to be an investment company.

FILING DATE: The application was filed on April 3, 1995, and an amendment thereto on May 3, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 6, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 220 East 42nd Street, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, diversified management investment company, organized as a business trust under the laws of the Commonwealth of Massachusetts. On November 18, 1988, applicant registered under the Act and filed a registration statement under the Securities Act of 1933. Applicant's registration statement was aborted on October 19, 1992, and applicant has made no public offering of its shares.

2. Applicant never issued any securities. Applicant has no shareholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

3. Applicant is not now engaged, nor does it propose to engage in any business activities.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–12318 Filed 5–18–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21067; 811–6339]

Value Line International Fund; Notice of Application

May 12, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Value Line International Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring it has ceased to be an investment company.

FILING DATE: The application was filed on April 3, 1995, and an amendment thereto on May 3, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 6, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or,

for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, 220 East 42nd Street, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, diversified management investment company, organized under the laws of the State of Maryland. On November 18, 1988, applicant registered under the Act and, on June 24, 1991, filed a registration statement under the Securities Act of 1933. Applicant's registration statement was aborted on October 19, 1992, and applicant has made no public offering of its shares.

2. Applicant never issued any securities. Applicant has no shareholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

3. Applicant is not now engaged, nor does it propose to engage in any business activities.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–12317 Filed 5–18–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21066; 811–5691]

Value Line Intermediate Bond Fund; Notice of Application

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Value Line Intermediate Bond Fund.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant requests an order declaring it has ceased to be an investment company.

FILING DATE: The application was filed on April 3, 1995, and an amendment thereto on May 3, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 6, 1995, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 220 East 42nd Street, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, diversified management investment company, organized as a business trust under the laws of the Commonwealth of Massachusetts. On November 18, 1988, applicant registered under the Act and filed a registration statement under the Securities Act of 1933. Applicant's registration statement was aborted on October 19, 1992, and applicant has made no public offering of its shares.

2. Applicant never issued any securities. Applicant has no shareholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding.

3. Applicant is not now engaged, nor does it propose to engage in any business activities.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–12316 Filed 5–18–95; 8:45 am]

BILLING CODE 8010–01–M

TENNESSEE VALLEY AUTHORITY

Limestone 500-kV Substation and Transmission Line

AGENCY: Tennessee Valley Authority.

ACTION: Notice of no practicable alternative to impacting wetlands.

SUMMARY: The Tennessee Valley Authority (TVA) proposes to initially construct three transmission lines connecting to TVA's new 500-kV substation (under construction) at a site in eastern Limestone County, Alabama. An environmental assessment, in accordance with the National Environmental Policy Act, is being prepared. This proposal will result in the disturbance of about 11.8 acres of wetlands as a result of handclearing. No structures would be placed in the wetlands. Consistent with the Executive Order 11990 ''Protection of Wetlands'' and TVA's Wetlands Procedure, it has been determined that no practicable alternative exists. TVA is requesting public comment on the impact to wetlands.

DATES: TVA will consider all relevant comments received by June 2, 1995 before a final decision is made on the proposal.

ADDRESSES: Any comments on this proposal should be addressed to Dale Wilhelm, National Environmental Policy Act Liaison, Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: For additional information on this action, call Hugh S. Barger, Transmission and Power Supply, Tennessee Valley Authority at (615) 751–3131.

SUPPLEMENTARY INFORMATION: TVA supplies power over its bulk 500-kV system to north central Alabama through its Madison and Trinity 500-kV substations. Twice in the past 16 years the Madison substation has been virtually isolated from large portions of the transmission network when the Huntsville area transmission system was devastated by tornadoes. However, available bulk power system backup prevented lengthy widespread blackouts..

System contingency studies show that by the summer of 1996 isolation or failure of the 500-kV transformer bank at Madison during peak demand would result in a loss of electric service over a wide area. Additionally, by the summer of 1997, loss of the 500-kV transformer bank at Trinity would result in the loss of service to sections of the area served by this substation. Other

elements of the existing transmission system could not prevent these single-contingency losses.

TVA will finish constructing a new 500-kV substation by the summer of 1996 on a site in eastern Limestone county, Alabama. Initially three transmission lines would be connected into the new substation:

1. The existing Browns Ferry-Madison No. 2 500-kV Transmission Line would be looped about 500 feet into the substation. The existing 500-kV line crosses the proposed substation site and no new right-of-way will be required.
2. The existing Athens-North Huntsville 161-kV Transmission Line would also be looped into the new substation by building a new double-circuit transmission line about 4.5 miles on 100 feet of new right-of-way adjacent to an existing transmission line corridor and 0.4 miles on new right-of-way 100 feet wide (58.9 total acres). An additional 1.5 miles would be underbuilt on rebuilt 500-kV towers in the Browns Ferry-Madison and Trinity-Maury 500-kV lines. No new right-of-way would be required in these sections.
3. A new 161-kV transmission line would be built from the Limestone substation to the Jetport, Alabama, substation in Madison County, a distance of about 9 miles. Approximately 4 miles of the line would be new construction of 5 miles of the existing General Motors-Jetport 161-kV line as a single steel pole, double-circuit 161-kV line on existing right-of-way.

Construction of the proposed transmission lines would result in right-of-way clearing and vegetation removal affecting approximately 11.8 acres of wetlands. No structures would be placed within the wetlands. Following construction. vegetation on these wetland rights-of-way would be managed so as to impede normal successional patterns. This successional intervention on forested wetlands could worsen impacts of previous clearing. Other wetland values an functions unrelated to forest canopy vegetation would remain intact through use of Best Management Practices (BMPs) for construction and maintenance.

The proposed transmission line routes have been selected to avoid wetlands as much as practical. Crossings of the Moss Spring and Beaverdam Swamp are unavoidable and account for most of the wetland acreage to be impacted.

Wetland impacts would be further minimized through application of the following BMPs for clearing, construction, and maintenance, on these forested wetlands. These BMPs would include:

1. Identified wetlands, streams, and drainways would not be modified so as to alter natural hydrological patterns.
2. Naturally occurring hydric soils would not be disturbed or modified in any way that would alter their hydrological properties.
3. Right-of-way clearing within forested wetlands would be accomplished by hand where possible and would be restricted to the minimal width necessary to allow for construction and operation of the proposed line.
4. If heavy equipment is required to accomplish right-of-way clearing within forested wetlands, lay-down pads would be used to remove vegetation and string transmission line cable.
5. Sediment control fencing would be placed downslope from construction activity to trap sediment and prevent its migration into waterways or water bodies.
6. Within wetland areas or along streams, stumps would not be uprooted or removed.
7. Future right-of-way maintenance within identified wetlands would be conducted during traditionally dry seasons and would avoid the use of heavy equipment. Chemical maintenance would only be done using chemicals labeled by the Environmental Protection Agency for wetlands use.

Dated: May 12, 1995.

Jon M. Loney,

Manager, Environmental Management.

[FR Doc. 95–12322 Filed 5–18–95; 8:45 am]

BILLING CODE 8120–01–M

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended May 12, 1995

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 50335
Date filed: May 8, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 5, 1995
Description: Application of Bay Air Cargo, S.A., pursuant to Section 402 of the Act and Subpart Q of the Regulations, applies for a foreign air carrier permit authorizing it to engage in charter foreign air transportation of property and mail between Brazil and the United States.

Docket Number: 50336
Date filed: May 8, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 5, 1995
Description: Application of Northwest Airlines, Inc., pursuant to 49 U.S.C. Section 41102 and Subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing Northwest to provide scheduled foreign air transportation of persons, property and mail between (a) Boston, Massachusetts and Delhi, India, via Amsterdam, the Netherlands, and (b) Boston, and Bombay, India, via Amsterdam.

Docket Number: 50341
Date filed: May 9, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 6, 1995
Description: Application of Air Malta Company Limited, pursuant to 49 U.S.C. Section 41302 and Subpart Q of the Regulations, requests an issuance of a foreign air carrier permit to allow Air Malta to provide scheduled and charter foreign air transportation of passengers, property (including cargo), and mail between Malta and a point or points in the United States, commencing on or about October 1, 1995.

Docket Number: 50348
Date filed: May 12, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 9, 1995
Description: Application of American Airlines, Inc. pursuant to 49 U.S.C. 41102 and 14 CFR Part 377, and Subpart Q of the Regulations, applies for renewal of authority to provide foreign air transportation of persons, property, and mail between a point or points in the United States and Manchester, England, on Segment 5 of its certificate of public convenience and necessity for Route 137, as amended by Order 90–10–11, October 11, 1990.

Docket Number: 50349
Date filed: May 12, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: May 9, 1995
Description: Application of American Airlines, Inc., pursuant to 49 U.S.C. 41102, and Subpart Q of the Regulations, applies for renewal of its certificate of public convenience and necessity for Route 583 (San Jose, California-Tokyo, Japan), initially issued by Order 90–10–15, October 12, 1990.

Docket Number: 50350
Date filed: May 12, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 9, 1995
Description: Application of Wolf International Airlines, Inc., pursuant to 49 U.S.C. Sections 41101 and 41102 and Subpart Q of the Regulations, applies for the issuance of a certificate authorizing it to engage in scheduled interstate air transportation of persons, property, and mail.

Docket Number: 50351
Date filed: May 12, 1995
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: June 9, 1995
Description: Application of Wolf International Airlines, Inc., pursuant to 49 U.S.C. Section 41101 and Section 41102, and Subpart Q of the Regulations, applies for the issuance of a certificate authorizing it to engage in scheduled foreign air transportation of persons, property, and mail.

Paulette V. Twine,

Chief, Documentary Services Division.

[FR Doc. 95–12373 Filed 5–18–95; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

[Summary Notice No. PE–95–21]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before June 8, 1995.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: nprmcmts@mail.hq.faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Mr. D. Michael Smith, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7470.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on May 15, 1995.

Michael Chase,

Acting Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28090
Petitioner: Mr. Steven Eugene Walz
Sections of the FAR Affected: 14 CFR 45.22(c) and 45.29(h)
Description of Relief Sought: To permit Mr. Walz to operate his aircraft, registration number N331KW, through an Air Defense Identification Zone (ADIZ) or Distant Early Warning Identification Zone (DEWIZ) without displaying on that aircraft temporary or permanent nationality and registration marks at least 12 inches high.

Docket No.: 28076
Petitioner: Mr. Grant C. Merrill
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought: To permit Mr. Merrill to act as a pilot in operations conducted under part 121 of the FAR after reaching his 60th birthday.

Docket No.: 28130
Petitioner: Mr. Donald E. Urbain
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought: To permit Mr. Urbain to serve as a pilot in air carrier operations under part 121 of the FAR after reaching his 60th birthday.

Docket No.: 28141
Petitioner: Mr. Rhett Micheletti
Sections of the FAR Affected: 14 CFR 103.1(b)
Description of Relief Sought: To permit Mr. Micheletti to operate a single occupancy powered or unpowered paraglider for the purpose of commercial advertising, by flying with advertisements that are imprinted on the paraglider's wing surface by the paraglider manufacturer and/or by towing one banner at a time with advertisements printed on it.

Docket No.: 28145
Petitioner: Pacific Island Aviation, Inc.
Sections of the FAR Affected: 14 CFR 43.3
Description of Relief Sought: To allow pilots employed by Pacific Island Aviation, Inc., to remove and replace passenger seats in its aircraft used in part 135 operations, or to supervise noncertificated ground personnel in performing those tasks.

Docket No.: 28165
Petitioner: Mr. Herbert H. Hamilton
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought: To permit Mr. Hamilton to act as a pilot in operations conducted under part 121 of the FAR after reaching his 60th birthday.

Docket No.: 28171
Petitioner: Mr. William G. Brown
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought: To permit Mr. Brown to act as pilot in operations conducted under part 121 of the FAR after reaching his 60th birthday.

Docket No.: 28175
Petitioner: Mr. Robert H. Tice
Sections of the FAR Affected: 14 CFR 121.383(c)
Description of Relief Sought: To permit Mr. Tice to act as a pilot in operations conducted under part 121 of the FAR after reaching his 60th birthday.

Docket No.: 28194
Petitioner: Timberland Logging Forest Products, Inc., d.b.a., Timberland Logging
Sections of the FAR Affected: 14 CFR 135.29
Description of Relief Sought: To permit Timberland Logging Forest Products, Inc. (TLFP), d.b.a. Timberland Logging, to add the name ''Mercy Flights'' and the medical ''star of life'' emblem to the side of aircraft operating under TLFP's current operations specifications.

Dispositions of Petitions

Docket No.: 24413
Petitioner: Tiger
Sections of the FAR Affected: 14, CFR 61.55(b)(2); 61.56(c)(1); 61.57 (c) and (d); 61.58(c) (1) and (d); 61.63(c) (2) and (d)(2) and (3); 61.65(c), and (e)(2) and (3), and (g);

61.67(d)(2); 61.157(d) (1) and (2) and (e)(1) and (2); 61.191(c); and appendix A, part 61

Description of Relief Sought/Disposition: To permit Tiger to use FAA-approved simulators to meet certain flight experience requirements of part 61 of the FAR. *Grant, April 26, 1995, Exemption No. 6073*

Docket No.: 27180

Petitioner: EVA Airways Corporation

Sections of the FAR Affected: 14 CFR 61.77 (a) and (b) and 63.23 (a) and (b)

Description of Relief Sought/Disposition: To extend Exemption No. 5646, which permits the issuance of U.S. special purpose pilot and flight engineer certificates to EVA airmen without meeting the requirements that they hold a current foreign certificate or license issued by a foreign contracting State to the Convention on International Civil Aviation, provided that the airmen hold appropriate certificates issued by the Taiwan Civil Aviation Authority. The amendment includes the addition of five aircraft to the list of aircraft that may be operated under this exemption. *Grant, April 28, 1995, Exemption No. 5646A*

Docket No.: 27213

Petitioner: /Flight Services Group, Inc.

Sections of the FAR Affected: 14 CFR 135.165(a) (1) and (6) and (b)(6) and (7)

Description of Relief Sought/Disposition: To extend Exemption No. 5674, which permits Flight Services Group, Inc., to operate certain airplanes equipped with one high-frequency (HF) communication system in extended overwater operations. *Grant, April 20, 1995, Exemption No. 5674A*

Docket No.: 27222

Petitioner: Executive Fliteways, Inc.

Sections of the FAR Affected: 14 CFR 135.165(b) (6) and (7)

Description of Relief Sought/Disposition: To extend Exemption No. 5675, as amended, which permits Executive Fliteways, Inc., to operate certain airplanes equipped with one high-frequency (HF) communication system in extended overwater operations. *Grant, April 20, 1995, Exemption No. 5675B*

Docket No.: 28183

Petitioner: United Airlines

Sections of the FAR Affected: 14 CFR 121.291(e)

Description of Relief Sought/Disposition: To permit United Airlines to conduct the ditching demonstration required to introduce the Boeing 777 (B–777) aircraft into service without the construction of stands or platforms at each emergency exit to simulate the waterline and to deploy only one slideraft rather than each liferaft. *Partial Grant, April 27, 1995, Exemption No. 6075*

Good Cause

Docket No.: 18881

Petitioner: International Aerobatic Club

Sections of the FAR Affected: 14 CFR 91.151(a)(1)

Description of Relief Sought: To permit the International Aerobatic Club (IAC), and members of IAC when participating in IAC-sponsored competitions, to continue to begin a flight in an airplane under visual flight rule conditions, during the day, when there is enough fuel to be able to fly to the first point of intended landing and to be able to fly, thereafter, for at least 20 minutes, subject to certain conditions and limitations.

Docket No.: 22469

Petitioner: Parks College of Saint Louis University

Sections of the FAR Affected: 14 CFR appendices A, C, D, and F, part 141

Description of Relief Sought: To extend Exemption 3495, as amended, which allows Parks College of Saint Louis University to continue to train its students to a performance standard in lieu of minimum flight experience requirements, subject to certain conditions and limitations.

Docket No.: 24237

Petitioner: Department of the Air Force

Sections of the FAR Affected: 14 CFR 91.177

Description of Relief Sought: To extend and amend Exemption 4371, as amended, which allows the Department of the Air Force (USAF) to operate under instrument flight rules (IFR) at an altitude lower than the limits prescribed in § 91.177(a)(2), and in closer proximity to the highest obstacle than the limits prescribed in § 91.177(a)(2). The current exemption also allows the USAF to conduct operations under IFR in uncontrolled airspace below 18,000 feet above mean sea level at any altitude, and for any direction of flight, under certain conditions and limitations. the amendment, if granted, would permit the USAF to allow aircraft involved in these operations to use Global Positioning System and Self-Contained Navigation System equipment, as well as reduce from 48 hours to 6 hours the time a Notice to Airmen issuance is required before conducting operations under this exemption.

Docket No.: 27330

Petitioner: Crow Executive Air, Inc.

Sections of the FAR Affected: 14 CFR 43.3(g)

Description of Relief Sought: To extend Exemption 5731, which allowed pilots employed by Crow Executive Air, Inc. (CEA), to remove and/or replace the cabin seats on aircraft used in operations conducted by CEA under part 135 of the FAR.

Docket No.: 27989

Petitioner: Bidzy Ta Hot Aana Corp., d.b.a., Tanana Air Service

Sections of the FAR Affected: 14 CFR 43.3(g)

Description of Relief Sought: To permit appropriately trained pilots employed by Tanana Air Service to remove and/or replace the passenger seats of aircraft used in operations conducted by Tanana Air Service under part 135 of the FAR.

[FR Doc. 95–12379 Filed 5–18–95; 8:45 am]

BILLING CODE 4910–13–M

Aviation Rulemaking Advisory Committee Meeting on Training and Qualifications

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Federal Aviation Administration Aviation Rulemaking Advisory Committee to discuss training and qualifications issues.

DATES: The meeting will be held on June 1, 1995 at noon.

ADDRESSES: The meeting will be held at the FAA Headquarters building, Room 302, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT:

Ms. Judi Citrenbaum, Office of Rulemaking, (ARM–100) 800 Independence Avenue SW., Washington, DC 20591. Telephone: (202) 267–9689.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Aviation Rulemaking Advisory Committee (ARAC) to discuss training and qualifications issues. This meeting will be held on June 1, 1995, at noon, in Room 302 of the FAA Headquarters building in Washington, DC. The agenda for this meeting will include a progress report from the Aircraft Dispatcher Working Group. In addition, ARAC will report on its task to evaluate and recommend a course of action regarding comments received on the Operator Flight Attendant English Language Advance Notice of Proposed Rulemaking, published in the **Federal Register** on April 18, 1994 (59 FR 18456).

Attendance is open to the interested public but may be limited to the space available. The public must make arrangements in advance to present oral statements at the meeting or may present statements to the committee at any time. In addition, sign and oral interpretation can be made available at the meeting, as well as an assistive listening device, if requested 10 calendar days before the meeting. Arrangements may be made by contracting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on May 15, 1995.

Thomas Toula,

Assistant Executive Director for Training and Qualifications, Aviation Rulemaking Advisory Committee.

[FR Doc. 95–12385 Filed 5–18–95; 8:45 am]

BILLING CODE 4910–13–M

Flight Service Station at Sheridan, Wyoming; Closing

Notice is hereby given that on or about June 7, 1995, the flight service station at Sheridan, Wyoming, will be closed. Services to the aviation public formerly provided by this facility will be provided by the automated flight service station in Casper, Wyoming. This information will be reflected in the FAA Organization Statement the next time it is issued. Sec. 313(a) of Federal Aviation Act of 1958, as amended, 72 Stat. 752; 49 U.S.C. App. 1354(a).

Issued in Seattle, Washington, on May 5, 1994.

Frederick M. Isaac,

Regional Administrator, Northwest Mountain Region.

[FR Doc. 95–12383 Filed 5–18–95; 8:45 am]

BILLING CODE 4910–13–M

Flight Service Station at Sitka, Alaska; Change in Facility Operation

Notice is hereby given that on or about May 20, 1995, the Sitka, Alaska, Flight Service Station (FSS) hours will change permanently from operating 24 hours a day to operating from 6:00 a.m. to 9:45 p.m. daily. Services to the general aviation public provided by this facility will be provided by the Automated Flight Service Station at Juneau, Alaska, during the hours the Sitka FSS is closed. This information will be reflected in the FAA Organization Statement the next time it is reissued. Sec. 313(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 752; 49 U.S.C. App. 1354(a).

Issued in Anchorage, Alaska, on May 3, 1995.

Jacqueline L. Smith,

Regional Administrator, Alaskan Region.

[FR Doc. 95–12382 Filed 5–18–95; 8:45 am]

BILLING CODE 4910–13–M

Flight Service Station at Worland, Wyoming; Closing

Notice is hereby given that on or about June 21, 1995, the flight service station at Worland, Wyoming, will be closed. Services to the aviation public formerly provided by this facility will be provided by the automated flight service station in Casper, Wyoming. This information will be reflected in the FAA Organization Statement the next time it is issued. Sec. 313(a) of Federal Aviation Act of 1958, as amended, 72 Stat. 752; 49 U.S.C. App. 1354(a).

Issued in Seattle, Washington, on May 15, 1995.

Frederick M. Isaac,

Regional Administrator, Northwest Mountain Region.

[FR Doc. 95–12384 Filed 5–18–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In April 1995, there were six applications approved. Additionally, nine approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of 49 U.S.C. 40117 (Pub. L. 103–272) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Department of Port Administration, Pago Pago, American Samoa.
Application Number: 95–01–C–00–PPG.
Application Type: Impose and use PFC revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $1,236,306.
Charge Effective Date: July 1, 1995.
Estimated Charge Expiration Date: June 1, 2000.
Class of Air Carriers Not Required to Collect PFC's: None
Brief Description of Project Approved for Collection and Use: Baggage Improvements.
Brief Description of Project Approved in Part for Collection and Use: Terminal improvements.
Determination: Approved in part. The Department of Port Authority requested PFC funding for the entire project, however, a portion of the terminal, approximately 15 percent is not PFC eligible. The approved amount is limited to the amount required to reroof the eligible portions of the terminals.
Decision Date: April 6, 1995.

FOR FURTHER INFORMATION CONTACT: David Welhouse, Honolulu Airports District Office, (808) 541–1243.

Public Agency: City of Lynchburg, Virginia.
Application Number: 95–01–C–00–LYH.
Application Type: Impose and use PFC revenue.
PFC Level: $3.00.
Total Approved Net Use PFC Revenue: $752,416.
Estimated Charge Effective Date: July 1, 1995.
Estimated Charge Expiration Date: December 1, 1998.
Class of Air Carriers Not Required to Collect PFC's: Air taxi operators.
Determination: Approved. Based on information submitted in the City of Lynchburg's application, the FAA has determined the proposed class accounts for less than 1 percent of Lynchburg Regional Airport's total annual enplanements.
Brief Description of Projects Approved for Collection and Use:
Purchase new aircraft rescue and firefighting (ARFF) vehicle,
Design and replace airfield signage,
Design and land acquisition for runway 17/35 approaches improvement,
Prepare airport master plan,
Federal Aviation Regulation [FAR] 107.14 airfield security-design,
FAR 107.14 airfield security-final phase,
Runway 17/35 approach-construction,
Purchase handicap lift device,
Rehabilitate runway 3/21 runway lights,
Land acquisition for noise mitigation,
Land acquisition—Part 77,
Easements—Part 77,
Overlay runway 17/35,
Purchase snow sweeper unit.
Brief Description of Projects Approved for Collection Only:
Purchase snow blower,
Construct snow equipment and maintenance building.
Decision Date: April 14, 1995.

FOR FURTHER INFORMATION CONTACT: Arthur Winder, Washington Airports District Office, (703) 285–2300.

Public Agency: Yakima Air Terminal Board (Board's), Yakima, Washington.
Application Number: 95–03–C–00–YKM.
Application Type: Impose and use PFC revenue.
PFC Level: $3.00.
Total Approved Net PFC Revenue: $220,000.
Charge Effective Date: June 1, 1995.
Estimated Charge Expiration Date: July 1, 1996.
Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators exclusively filing FAA Form 1800–31.
Determination: Approved. Based on information submitted in the Board's application, the FAA has determined the proposed class accounts for less than 1 percent of Yakima Air

Terminal's total annual enplanements.
Brief Description of Project Approved for Collection and Use: Runway 9/27 rehabilitation project.
Decision Date: April 19, 1995.

FOR FURTHER INFORMATION CONTACT: Paul Johnson, Seattle Airports District Office, (206) 227–2655.

Public Agency: Lexington Fayette Urban County Airport Board (Board) Lexington, Kentucky.
Application Number: 95–02–C–00–LEX.
Application Type: Impose and use PFC revenue.
PFC Level: $3.00
Total Approved Net PFC Revenue: $1,339,287.
Charge Effective Date: May 1, 2005.
Estimated Charge Expiration Date: September 1, 2005.
Class of Air Carriers Not Required to Collect PFC's: Air carriers operating under Part 135 or Part 298, on an on-demand, nonscheduled basis, and not selling tickets to individual passengers.
Determination: Approved. Based on information submitted in the Board's application, the FAA has determined that the proposed class accounts for less than 1 percent of Blue Grass Airport's total annual enplanements.
Brief Description of Project Approved for Collection and Use: Regional ARFF training facility.
Brief Description of Project Approved for Use: Implement noise abatement program—phase I, Purchase lift device, Americans with Disabilities Act, phase II.
Decision Date: April 21, 1995.

FOR FURTHER INFORMATION CONTACT: Cynthia K. Wills, Memphis, Airports District Office, (901) 544–3495.

Public Agency: Pitkin County Board of County Commissioners (Board), Aspen Colorado.
Application Number: 93–01–C–00–ASE.
Application Type: Impose and use PFC revenue.
PFC Level: $3.00
Total Approved Net PFC Revenue: $1,533,541.
Charge Effective Date: July 1, 1995.
Estimated Charge Expiration Date: February 1, 1998.
Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators exclusively filing FAA Form 1800–31.
Determination: Approved. Based on information submitted in the Board's application, the FAA has determined that the proposed class accounts for less than 1 percent of Aspen-Pitkin County Airport's total annual enplanements.
Brief Description of Projects Approved for Collection and Use: Relocate State Highway 82, Overlay runway 15/33.
Decision Date: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Brad Davis, Denver Airports District Office, (303) 286–5526.

Public Agency: City of Austin (City), Austin, Texas.
Application: 95–04–C–00–AUS.
Application Type: Impose and use PFC revenue.
PFC Level: $3.00
Total Approved Net PFC Revenue: $333,232,479.
Charge Effective Date: July 1, 1995.
Estimated Charge Expiration Date: July 1, 2020.
Class of Air Carriers Not Required to Collect PFC's: On demand air taxi/commercial operators that (1) do not enplane or deplane at Robert Mueller Municipal Airport's (AUS) or subsequently, Austin Bergstrom International Airport's (ABIA) main terminal building or (2) enplane fewer than 500 passengers per year at AUS, or subsequently, ABIA.
Determination: Approved. Based on information submitted in the City's application, the FAA has determined that the proposed class accounts for less than 1 percent of AUS's actual or ABIA's forecasted total annual enplancements.
Brief Description of Projects Approved for Collection and Use:
New airport passenger terminal complex,
New airport landside facilities.
Brief Description of Project Approved, in Part, for Collection and Use: New airport airfield facilities.
Determination: Approved, in part. This project is generally Airport Improvement Program eligible in accordance with paragraphs 510, 520, 521, 523, 524, 530, 532, 534, and 535 of FAA Order 5100.38A. However, the 9,000-foot by 150-foot widely spaced parallel runway requested by the City was determined to not be an economically justified alternative over a closely spaced 9,000-foot runway alternative offered by the air carriers during consultation, in accordance with established benefit-cost criteria. The 7,000-foot by 150-foot runway approved is economically justified and provides sufficient capacity to meet the runway requirements for opening day at ABIA. The FAA is not approving the imposition or use of PFC revenue for the additional 2,000 feet of runway. In light of the 12,250-foot length available on existing runway 17R/35L, the operational requirement for a new 9,000-foot runway has not been demonstrated. This approval is based on the City's representation that it expects to use locally generated aviation funds to construct the additional 2,000 feet of runway and complete the 9,000-foot length it originally proposed in its application.
Decision Date: April 28, 1995.

FOR FURTHER INFORMATION CONTACT: Ben Guttery, Southwest Airports Division, (817) 222–5614.

AMENDMENTS TO PFC APPROVALS

Amendment number, city, state	Amendment approved date	Amended approved net PFC revenue	Original approved net PFC revenue	Original estimated charge expiration date	Amended estimated charge expiration date
93–01–C–01–DAB Daytona Beach, FL	10/05/94	13,020,901	7,967,835	11/01/99	02/01/04
93–01–C–01–JAN Jackson, MS	03/03/95	6,237,459	1,918,855	04/01/95	10/01/99
92–01–C–01–SJU San Juan, Puerto Rico	03/24/95	49,768,000	46,200,066	02/01/97	10/01/96
93–01–C–02–MSY New Orleans, LA	04/13/95	193,889,875	193,640,386	04/01/00	01/01/08
94–01–C–01–AVL Asheville, NC	04/14/95	5,645,771	4,909,314	11/01/00	06/01/01
93–02–C–01–GPT Gulfport, MS	04/17/95	654,952	607,817	12/01/93	01/01/96
92–01–C–03–GPT Gulfport, MS	04/17/95	1,201,341	1,079,995	01/01/96	01/01/96
93–01–C–01–GSG Columbus, GA	04/18/95	1,132,288	534,633	06/01/95	07/01/97
93–01–C–00–FNL Fort Collins, CO	04/24/95	200,518	207,857	06/01/96	10/1/95

Issued in Washington, D.C. on May 12, 1995.

Sheryl Scarborough,

Acting Manager, Passenger Facility Charge Branch.

[FR Doc. 95–12380 Filed 5–18–95; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Waco, Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Waco Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before June 19, 1995.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Staff, ASW–610D, Forth Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Walter C. Schrupp, Director of Aviation, Waco Regional Airport at the following address: Walter C. Schrupp, Director of Aviation, Waco Regional Airport, Route 10, Box 173T, Waco, Texas 76708.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Staff, ASW–610D, Forth Worth, Texas 76193–0610, (817) 222–5614.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Waco Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On May 5, 1995, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 22, 1995.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00
Proposed charge effective date: November 1, 1995
Proposed charge expiration date: June 30, 2000
Total estimated PFC revenue: $615,742.00
Brief description of proposed project(s):

Projects to Impose and Use PFC'S

Planning Studies, Airfield Safety Improvements, Terminal Safety Improvements, and Acquire ARFF Vehicle.
Proposed class or classes of air carriers to be exempted from collecting PFC's: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Staff, ASW–610D, 2601 Meacham Blvd., Forth Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Waco Regional Airport.

Issued in Forth Worth, Texas on May 5, 1995.

Faye S. Nedderman,

Acting Manager, Airports Division.

[FR Doc. 95–12381 Filed 5–18–95; 8:45 am]

BILLING CODE 4910–13–P

National Highway Traffic Safety Administration

Safety Performance Standards, Research and Safety Assurance Programs Meetings

AGENCY: National Highway Traffic Safety Administration.

ACTION: Notice of public meetings.

SUMMARY: This notice announces public meetings at which NHTSA will answer questions from the public and the automobile industry regarding the agency's safety performance standards, safety assurance and other programs; and, subject to President Clinton's prior announcement of the federal regulatory reform initiative results, NHTSA will also discuss its decisions concerning motor vehicle regulatory reform. In addition, NHTSA will hold a separate public meeting to describe and discuss specific research and development projects.

DATES: The Agency's regular, quarterly public meeting relating to the agency's safety performance standards, safety assurance and other programs will be held on June 28, 1995 beginning at 9:30 a.m. and ending at approximately 12:30 p.m. Assuming a prior announcement by President Clinton, NHTSA will also discuss its motor vehicle regulatory reform initiatives and its response to public comments on this subject. This latter discussion will be held immediately after the regular quarterly meeting, either during the 9:30 a.m. to 12:30 p.m. period if time allows, or else beginning after lunch at 1:30 p.m. For the regular, quarterly public meeting, questions relating to the agency's safety performance standards, safety assurance and other programs must be submitted in writing by June 19, 1995 to the address shown below. If sufficient time is available, questions received after the June 19 date may be answered at the meeting. The individual, group or company submitting a question(s) does not have to be present for the question(s) to be answered. A consolidated list of the questions submitted by June 19, 1995 and the issues to be discussed will be mailed to interested persons by June 22, 1995 and will also be available at the meeting.

Also, the agency will hold a second public meeting on June 27, devoted exclusively to a presentation of research and development programs. The meeting will begin at 1:30 p.m. and end at approximately 5:00 p.m. This meeting is described more fully in a separate announcement.

ADDRESSES: Questions for the June 28, NHTSA Technical Industry Meeting, relating to the agency's safety performance standards and safety assurance programs should be submitted to Barry Felrice, Associate Administrator for Safety Performance Standards, NPS–01, National Highway Traffic Safety Administration, Room 5401, 400 Seventh Street, SW., Washington, DC 20590. The meeting will be held at the Ramada Inn, near the Detroit Metro Airport, 8270 Wickham Road, Romulus, MI 48174.

SUPPLEMENTARY INFORMATION: NHTSA will hold this regular, quarterly meeting to answer questions from the public and the regulated industries regarding the agency's safety performance standards, safety assurance and other programs. Since the agency is holding a separate meeting on its research and development programs, any questions on those issues will only be answered at the afternoon meeting to be held on June 27, 1995 and should be submitted to the Research and Development Office. However, questions on aspects of the agency's research and development activities that relate to ongoing regulatory actions should be submitted, as in the past, to the agency's Safety Performance Standards Office.

The motor vehicle regulatory reform meeting is a follow-up to NHTSA's March 29, 1995 meeting on regulatory reform held in conjunction with the agency's previous quarterly technical meeting, and to the agency's April 4, 1995 meeting in Washington, D.C., at which NHTSA sought information from the public on regulatory reform actions the agency should take related to its motor vehicle regulations. These were in conjunction with President Clinton's call for a new approach to the way Government regulates the private sector, and his request that Executive Branch agencies report to him by June 1, 1995 on ways to improve the regulatory process. To follow the President's expected announcement of the results of this initiative, NHTSA will discuss how the agency has handled the public comments and the anticipated next actions to implement its motor vehicle regulatory reform decisions.

The regular, quarterly, meeting to be held on June 28th will be at the Ramada Inn near the Detroit Metro Airport, 8270 Wickham Road, Romulus, MI 48174. The purpose of this meeting is to focus on those phases of NHTSA activities which are technical, interpretative or procedural in nature. A transcript will be available for public inspection in the NHTSA Technical Reference Section in Washington, DC, within four weeks after the meeting. Copies of the transcript will then be available at ten cents a page (length has varied from 100 to 150 pages) upon request to NHTSA Technical Reference Section, Room 5108, 400 Seventh Street, SW., Washington, DC 20590. The Technical Reference Section is open to the public from 9:30 a.m. to 4 p.m.

NHTSA will provide auxiliary aids to participants as necessary, during the NHTSA Technical Industry Meeting, NHTSA Regulatory Reform Meeting, and the NHTSA Industry Research and Development Meeting. Any person desiring assistance of ''auxiliary aids'' (e.g., sign-language interpreter, telecommunications devices for deaf persons (TDDs), readers, taped texts, brailled materials, or large print materials and/or a magnifying device), please contact Barbara Carnes on (202) 366–1810, by COB June 19, 1995 for the June 28, 1995 meetings or Barbara Coleman (202) 366–1537 by COB June 19, 1995 for the June 27, 1995 meeting.

Issued: May 15, 1995.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 95–12300 Filed 5–18–95; 8:45 am]

BILLING CODE 4910–59–M

UNITED STATES INFORMATION AGENCY

Administration of the 1996 U.S. Based Training Program for Overseas Educational Advisers

ACTION: Notice—request for proposals.

SUMMARY: The Advising and Student Services Branch of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. The proposal, which can be submitted by public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(C)(3)–1, should describe the design of two training programs for USIA-affiliated mid-level overseas educational advisers to be held in late spring and fall of 1996. The training programs' objectives are to strengthen and develop the skills of more experienced overseas educational advisers so that they can train beginning advisers and advance the field of educational advising in their home countries. A successful training program should provide in-depth exposure to the mechanics of international study on a U.S. university campus (admissions and international office), advances in technology (internet), and outreach strategies, (fundraising and management of volunteers). Each session should last three weeks, with a beginning week in Washington, DC or other suitable city for workshops, research opportunities and discussions; a one-week to ten-day internship at a U.S. college or university campus for an in-depth exposure to international student admission and advising; and approximately one week or less at either the National NAFSA: Association of International Educators Conference in late May or one of the regional NAFSA conferences in the fall. Further clarification is provided in the application package. USIA anticipates awarding up to $205,000 to one organization to administer this program.

Background and Program Rationale

The presence of international students and scholars on U.S. campuses contributes significantly to the academic quality and financial well-being of American higher education. In recognition of this, The United States Information Agency, maintains a network of educational advising centers overseas where objective information about study options and the application process to U.S. higher education is available to all prospective students, scholars, parents, governments ministries, and other interested individuals. These centers are staffed by educational advisers who must stay up to date with current trends in U.S. higher education, as well as remain knowledgeable about developments in technology, materials available, and management skills relevant to running busy centers.

Program Participants

USIA will select participants for the training sessions from the corps of educational advisers who are part of the network of USIA-affiliated advising centers overseas and who, based on seniority and previous job experience, are considered ''mid-level'' advisers. For the purposes of this RFP, mid-level advisers are defined as those who have mastered the following skills: (1) Knowledge of the U.S. and home country educational systems; (2) familiarity with the application process for U.S. higher education and training; (3) skills in advising and cross-cultural communication skills; (4) a basic understanding of the management theories and practices as they relate to educational advising.

Training Program Format

The training program is intended for two separate groups of ten participants each and should contain sessions in Washington DC or other suitable city, an internship or other form of meaningful professional visit at a U.S. academic institution(s), and active attendance, to include at least one presentation, at either the national NAFSA: Association of International Educators conference or one of its regional fall conferences.

The separate training programs should resemble each other in structure but have a different focus, thereby taking advantage of opportunities available at different times of the year. For instance, the spring session might concentrate on cultural adjustment (pre-departure/re-entry issues) faced by

international students, whereas the fall session might focus on admissions issues. These are suggestions; USIA invites organizations to submit creative and flexible program plans which can be tailored to participants' individual needs. Nevertheless, the following components must be covered in each training course:

Discussion of the current state of U.S. higher education and how it affects the work of the educational adviser; individual consultations with U.S. exchange organizations depending on participant's area of expertise; accreditation and degree equivalency issues; internet training; hands-on campus exposure to admissions and international student advising issues in the U.S.; exploration of alternate sources of support for educational advising, including fundraising techniques and managing volunteers. Please refer to program specific guidelines (POGI) and the ''Training and Professional Development'' report in the Solicitation Package for further details.

Proposed Budget

Applicants must submit a comprehensive budget for the entire program (both sessions). For clarification, applicants should provide separate sub-budgets for each training component. There must be a summary budget as well as a breakdown reflecting both the administrative budget and the program budget based on the guidance in the Solicitation Package. USIA's grant assistance, up to $205,000 in total, is expected to constitute only a portion of the total project funding. Cost sharing is required and the proposal should list other anticipated sources of support. Organizations with fewer than four years of experience in conducting international exchange programs will not be eligible.

Allowable costs for the program include the following:

(1) Salaries and fringe benefits; travel and per diem;

(2) Other direct costs, inclusive of rent, utilities, etc.;

(3) Indirect expenses, auditing costs;

(4) Participant program costs; i.e. international/domestic travel, per diem, conference attendance, resource materials. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will be reviewed by the Agency contracts office, as well as the USIA Area Offices and the USIS posts overseas, where appropriate. Proposals may also be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA grants officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of the program idea:* Proposals should demonstrate comprehensive understanding of current issues in international educational exchange and show clearly how the proposed course of study will give advisers the expertise to run efficient and effective advising centers. Training ideas should be innovative, interesting and engage the participants actively at all sessions of the program.

2. *Program planning:* Proposals should contain a detailed agenda and syllabus, clearly showing how sessions will achieve program objectives. Proposals should demonstrate convincingly that the organization has the staff capacity and expertise to plan this complex set of training sessions. Agenda and plan should adhere to the program overview and guidelines described above.

3. *Multiplier effect/impact:* The training program should put participants in tough with U.S. experts and international educators so that the maximum amount of information can be shared and professional linkages established.

5. *Support of diversity:* The proposal should demonstrate how the participants will be exposed to the widest possible range of views and approaches to U.S. higher education. Attention should be paid to selecting the campuses for internships to represent different kinds of schools from various regions of the U.S.

6. *Institutional capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

7. *Institution's record/ability:* Proposals should demonstrate an institutional record of designing and running effective training programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. *Project evaluation:* Proposals should include a plan to evaluate the activity's success, including participant evaluation forms, both as the activities unfold and at the end of the program. Award-receiving organizations/ institutions will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

9. *Cost-effectiveness:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

10. *Cost-sharing:* Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

Authorization

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrting the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and other countries of the world.''

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

Announcement Name and Number

All communications with USIA concerning this announcement should refer to the above title and reference number E/ASA–96–01.

Deadline for Proposals

All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Friday, July 28, 1995. Faxed documents will not be accepted, nor will documents postmarked July 28, but received at a

later date. It is the responsibility of each applicant to ensure that proposals are received by the above deadline. Grants should begin November 1, 1995 and run through December 31, 1996, with a starting date of May 1996 for the first training program.

FOR FURTHER INFORMATION CONTACT: Advising and Student Services, E/ASA, Room 349, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547, Tel: (202) 619–5434, Fax: (202) 401–1433. E-mail: ahatteme@usia.gov. Potential applicants are encouraged to contact the program office and confirm understanding of the terms of this Request for Proposals before requesting a Solicitation Package, which includes more detailed award criteria; all application forms; and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget; a report/concept paper on training for educational advisers. The report should be used for general guidance only; in places where the recommendations of the report conflict with the RFP, it shall be the definitive document. (Note: the report/concept paper is available only upon specific request to E/ASA). Please specify USIA Program Officer Alexandra Hattemer on all inquiries and correspondence. Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to E/ASA or submitting their proposals. Once the RFP deadline has passed, E/ASA may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

ADDRESSES: Applicants must follow all instructions given in the Solicitation Package. The original and eight copies of the complete application should be sent to: U.S. Information Agency, Ref.: E/ASA–96–01, Office of Grants Management, E/XE, Room 336, 301 4th Street, SW., Washington, DC 20547.

SUPPLEMENTARY INFORMATION: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including but not limited to race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The needs of the program may require the award to be reduced, revised, or increased. Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Notification

All applicants will be notified of the results of the review process on or about November 1, 1995. Awards made will be subject to periodic reporting and evaluation requirements.

Dated: May 12, 1995.

Dell Pendergrast,

Deputy Associate Director, Educational and Cultural Affairs.

[FR Doc. 95–12351 Filed 5–18–95; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee for Cooperative Studies, Health Services, and Rehabilitation Research and Development Subcommittee on Scientific Review and Evaluation for Health Services Research and Development Service, Notice of Meeting

The Department of Veteran Affairs, Veterans Health Administration, gives notice under Pub. L. 92–463, that a meeting of the Advisory Committee for Cooperative Studies, Health Services, and Rehabilitation Research and Development Subcommittee on Scientific Review and Evaluation for Health Services Research and Development will be held at The Madison Hotel, 15th and M Streets, Northwest, Washington, D.C., June 13 through June 15, 1995. Session One on June 13, 1995, is scheduled to begin at 11:00 a.m. and end at 12:30 p.m. (EST). The purpose of the meeting is to review a cooperative study entitled ''A Comprehensive System for Quality Improvement in Ambulatory Care.'' The study will be reviewed for scientific and technical merit and recommendations regarding its funding are prepared for the Associate Chief Medical Director for Research and Development. Session Two on June 13, 1995, is scheduled to begin at 5:30 p.m. and end at 7:00 p.m. (EST). The sessions scheduled for June 14 and 15 are scheduled to begin at 8:00 a.m. and end at 5:00 p.m. (EST). The purpose of the meeting is to review research and development applications concerned with the measurement and evaluation of health care systems and with testing new methods of health care delivery and management. Applications are reviewed for scientific and technical merit and recommendations regarding their funding are prepared for the Associate Chief Medical Director for Research and Development.

Session One will be open to the public (to the seating capacity of the room) at the start of the June 13 Cooperative Studies in Health Sciences meeting for approximately one-half hour to cover administrative matters and to discuss the general status of the program. Session Two will be open to the public (to the seating capacity of the room) at the start of the June 13 Investigator Initiated Research meeting for approximately one hour to cover administrative matters and to discuss the general status of the program. The closed portion of the two meetings involves discussion, examination, reference to, and oral review of staff and consultant critiques of research protocols, and similar documents. During this portion of the meeting, discussion and recommendations will deal with qualifications of personnel conducting the studies, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, as well as research information, the premature disclosure of which would be likely to frustrate significantly implementation of proposed agency action regarding such research projects. As provided by the subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, closing portions of these meetings is in accordance with 5 U.S.C. 552b(c)(6) and (9)(B).

Due to the limited seating capacity of the room, those who plan to attend the open sessions should contact Mr. Bill Judy, Review Program Manager (12B3), Health Services Research and Development Service, Department of Veterans Affairs, 810 Vermont Avenue, NW, (Techworld), Washington, DC, 20420 (phone: 202–523–7425) at least five days before the meeting.

Dated: May 11, 1995.

By Direction of the Secretary:

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–12298 Filed 5–18–95; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 60, No. 97
Friday, May 19, 1995

This section of the FEDERAL REGISTER contains notices of meetings published under the ''Government in the Sunshine Act'' (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 10:30 a.m., Wednesday, May 24, 1995.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, Virginia 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meetings.
2. Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Administrative Actions under Section 205 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 95–12480 Filed 5–17–95; 3:05 pm]

BILLING CODE 7535–01–M

Friday
May 19, 1995

Part II

Federal Trade Commission

16 CFR Part 309

Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles; Final Rule

FEDERAL TRADE COMMISSION

16 CFR Part 309

RIN 3084–AA57

Labeling Requirements for Alternative Fuels and Alternative Fueled Vehicles

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: Section 406(a) of the Energy Policy Act of 1992 (''EPA 92'') directs the Federal Trade Commission (''Commission'') to establish uniform labeling requirements, to the greatest extent practicable, for alternative fuels and alternative fueled vehicles. On November 18, 1994, the Commission published a supplemental notice of proposed rulemaking in the **Federal Register** announcing the substance of proposed labeling requirements and sought written comment on its proposal. In this notice the Commission announces its final labeling requirements, and explains why it has modified certain requirements from those proposed.

EFFECTIVE DATE: Subpart A and Subpart B of 16 CFR Part 309 are effective on August 21, 1995. Subpart C of 16 CFR Part 309 is effective on November 20, 1995. The incorporation by reference of certain publications listed in subpart B of 16 CFR Part 309 is approved by the Director of the Federal Register as of August 21, 1995. The incorporation by reference of certain publications listed in subpart C of 16 CFR Part 309 is approved by the Director of the Federal Register as of November 20, 1995.

FOR FURTHER INFORMATION CONTACT: Jeffrey E. Feinstein, Attorney, 202/326–2372, or Neil J. Blickman, Attorney, 202/326–3038, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Statement of Basis and Purpose

I. Introduction

EPA 92[1] establishes a comprehensive national energy strategy designed to increase U.S. energy security and improve the economy in cost effective and environmentally beneficial ways.[2] It seeks to reduce the dependence of the United States on oil imports; promote energy efficiency; reduce the use of petroleum-based fuels in motor vehicles; and provide new energy options. Other programs in titles III, IV, V, and VI of EPA 92 promote the development of alternative fuels[3] and alternative fueled vehicles (''AFVs'').[4]

Two provisions in title IV of EPA 92 require that information on alternative fuels and AFVs be made available to consumers. In one provision, section 406(a) of EPA 92 directs the Commission to issue a rule establishing uniform labeling requirements, to the greatest extent practicable, for alternative fuels and alternative fueled vehicles.[5] The Act does not specify what information should be displayed on these labels. Instead, it provides generally that the rule must require disclosure of ''appropriate,'' ''useful,'' and ''timely'' cost and benefit information on ''simple'' labels.[6] The purpose of the labeling requirements is to enable consumers to make reasonable choices and comparisons. In formulating the rule, the Commission must consider the problems associated with developing and publishing the required information, taking into account lead time, costs, frequency of changes in costs and benefits that may occur, and other relevant factors. Where appropriate, the labels required by section 406(a) are to be consolidated with other labels providing information to consumers. EPA 92 requires the Commission to update its labeling requirements ''periodically to reflect the most recent available information.''[7]

A second and complementary provision directs the Secretary of Energy (''DOE'') to develop an information package for consumers.[8] Specifically, section 405 of EPA 92 requires DOE to produce and make available an information package for consumers to help them choose among alternative fuels and AFVs.[9] DOE's information package must provide ''relevant and objective'' information addressing ''motor vehicle characteristics and fuel characteristics as compared to gasoline'' (including environmental performance, energy efficiency, domestic content, cost, maintenance requirements, reliability, and safety), information about the conversion of conventional motor vehicles to AFVs, and ''such other information as the Secretary [of DOE] determines is reasonable and necessary to help promote the use of alternative fuels in motor vehicles.''[10]

This is the Commission's second rulemaking concerning labeling requirements for alternative fuels. In a separate proceeding also required by EPA 92,[11] the Commission extended the requirements of its former Octane Rule[12] (renamed the ''Fuel Rating Rule'') beyond gasoline to include *liquid* alternative fuels.[13] As a result, retailers of such fuels are now required, among other things, to post labels identifying the commonly used name of the fuel and the amount, expressed as a minimum percentage by volume, of the fuel's principal component.[14]

II. Public Participation

EPA 92 required the Commission, in formulating its labeling requirements, to ''obtain the views of affected industries, consumer organizations, Federal and State agencies, and others.''[15] It also required the Commission to issue a Notice of Proposed Rulemaking (''NPR'') in consultation with DOE, the Administrator of the Environmental Protection Agency (''EPA''), and the Secretary of Transportation (''DOT'')

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[1] Pub. L. 102–486, 106 Stat. 2776 (1992).

[2] H. Rep. No. 102–474(I), 102d Cong., 2d Sess. 132, *reprinted in* 1992 U.S.C.C.A.N. at 1954, 1955.

[3] ''Alternative fuels'' are defined as:

[M]ethanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary [of Energy], by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits[.]

42 U.S.C. 13211(2) (Supp. IV 1993).

[4] An ''alternative fueled vehicle'' is ''a dedicated vehicle or a dual fueled vehicle[.]'' 42 U.S.C. 13211(3). Each term is further defined in 42 U.S.C. 13211 (6) and (8).

[5] Section 406(a) is codified at 42 U.S.C. 13232(a) (Supp. IV 1993).

[6] 42 U.S.C. 13232(a).

[7] *Id.*

[8] 42 U.S.C. 13231. DOE is also required to provide technical assistance to the Commission in developing labeling requirements, and coordinate such technical assistance with its development of a consumer information package. 42 U.S.C. 13232(b).

[9] 42 U.S.C. 13231. The information package required by this section was intended ''to enable [consumers] to understand and to help them choose among alternative fuels and AFVs.'' H. Rep. No. 102–474(I), 102d Cong., 2d Sess. 185, *reprinted in* 1992 U.S.C.C.A.N. at 1954, 2008.

[10] 42 U.S.C. 13231. EPA 92 also directs the DOE Secretary to create an additional public education program targeted specifically to the Federal government. Under that mandate, the DOE Secretary, ''in cooperation with the Administrator of General Services,'' must ''promote programs and educate officials and employees of Federal agencies on the merits of [AFVs].'' 42 U.S.C. 13214(a). That section further requires that the DOE Secretary ''shall provide and disseminate information to Federal agencies on,'' *inter alia*, ''the range and performance capabilities of [AFVs].'' *Id.*

[11] 15 U.S.C. 2821–2823.

[12] Octane Posting and Certification, 16 CFR Part 306.

[13] 16 CFR 306.0(i)(2) (1994). In that proceeding, the Commission had no authority to extend the rule's requirements beyond liquid alternative fuels. 15 U.S.C. 2821 (Supp. IV 1993).

[14] 16 CFR 306.0(j)(2) (1994). The Fuel Rating Rule became effective October 25, 1993. 58 FR 41356, 41356, Aug. 3, 1993.

[15] 42 U.S.C. 13232(a).

within eighteen months after October 24, 1992 (the statute's enactment date).[16] To comply with those requirements, the Commission received information from the public relating to this proceeding from five sources: written comments filed in response to an Advanced Notice of Proposed Rulemaking (''ANPR'') published on December 10, 1993,[17] written comments filed in response to an NPR published on May 9, 1994,[18] testimony during a Public Workshop-Conference (''Workshop'') held on July 20, 1994, supplemental written comments filed after the Workshop, and written comments filed in response to a Supplemental Notice of Proposed Rulemaking (''SNPR'') published on November 18, 1994.[19] All such information (i.e., the written comments and Workshop transcript) was placed on the public record of this proceeding. The discussion below includes information from all five sources, as well as documents placed on the public record by the Commission's staff.[20] The Commission considered all these materials in developing this final labeling rule.

A. The Commission's ANPR

In its ANPR, the Commission sought written comment on basic issues raised by section 406(a)'s mandate. Accordingly, it requested comment on issues relating to which fuels and vehicles should be covered by the labeling requirements (i.e., the proposed rule's scope), and what information should be required to be displayed on labels (i.e., the proposed rule's disclosures).[21] The Commission also sought comment on how the labeling requirements should be updated, and the extent to which the labels should be consolidated with other labels providing information to consumers. In response, the Commission received 28 written comments addressing these issues. The comments were summarized in the Commission's NPR.[22]

B. The Commission's NPR

The Commission considered written comments responding to the ANPR in developing its initial labeling proposal, which was published in the **Federal Register** as the Commission's NPR. The NPR announced the substance of proposed labeling requirements and a proposed rule implementing section 406(a)'s mandate. In that NPR, the Commission invited interested persons to submit written comments on any issue of fact, law or policy that might have bearing upon the proposed labeling requirements. In response, the Commission received 37 written comments addressing the Commission's proposal. The comments responding to the NPR were summarized in the Commission's SNPR.

C. Public Workshop-Conference

The Commission announced in the NPR that its staff would conduct a Workshop to afford staff and interested parties an opportunity to discuss issues raised in the rulemaking proceeding.[23] The Workshop was not intended to achieve a consensus of opinion among participants or between participants and Commission staff with respect to any issue. Instead, its purpose was to examine publicly areas of significant controversy or divergent opinions that were raised in the written comments.

Twenty-one interested parties timely submitted written requests to participate in the Workshop.[24] Twenty of those parties filed written comments as required,[25] and all twenty were invited to participate. Two parties (Chrysler and Greenpeace) subsequently elected not to attend, and, as a result, individuals representing eighteen interested parties participated at the Workshop.[26] The Workshop was held on July 20, 1994, at the Commission's headquarters and was conducted as announced in the NPR.[27]

D. Post-Workshop Comments

In its NPR, the Commission announced that Workshop participants would be permitted one week to file supplemental written comments addressing concerns raised during the Workshop.[28] Eight participants elected to file such comments.[29] The Commission also announced that after reviewing written comments received in response to the NPR, the Workshop transcript, and the post-Workshop comments, it would publish an SNPR. The SNPR would propose the text of a labeling rule and allow the public an opportunity to comment on the revised labeling proposal.

E. Supplemental Notice of Proposed Rulemaking

The Commission considered written comments on the public record, the Workshop transcript,[30] and staff submissions in developing a revised labeling proposal, which was published in the **Federal Register** as the Commission's SNPR. The SNPR announced modifications to the Commission's initial labeling proposal and the specific language of a proposed labeling rule. The Commission invited interested persons to submit written

[16] *Id.* Commission staff consulted with staff from DOE, EPA, and DOT's National Highway Traffic Safety Administration while developing its initial and supplemental labeling proposals.

[17] 58 FR 64914.

[18] 59 FR 24014.

[19] 59 FR 59666.

[20] Commission's Rulemaking Record No. R311002. Comments submitted in response to the SNPR are coded either ''I'' (indicating that they were filed by nongovernmental parties) or ''J'' (indicating that they were filed by governmental agencies). Written comments submitted in response to prior **Federal Register** notices are coded either ''D'' or ''E'' (in response to the ANPR) or ''G'' or ''H'' (in response to the NPR). Written requests to participate in the Workshop are coded ''A.'' The Workshop transcript is filed in category ''L.'' Information placed on the public record by Commission staff is coded ''B.''

In this notice, comments are cited by identifying the commenter (by abbreviation), the comment number, and the relevant page number(s), e.g., ''RFA, I–3, 1–3.'' Supplemental comments filed after the Workshop are designated as (Supp.), e.g., ''RFA (Supp.), G–5, 1.'' Discussion in the Workshop is cited by identifying the party, a reference to the transcript, and the relevant page number(s), e.g., ''EPA (Tr.), 184.'' Staff submissions are cited by identifying the document number, relevant page number(s), and document date, e.g., ''B–13, 3, Jan. 25, 1994.''

[21] 58 FR 64914, 64915.

[22] 59 FR 24015–24017.

[23] 59 FR 24014, 24020.

[24] AAMA, A–2 (on behalf of AAMA, Chrysler, Ford, and GM); AGA/NGVC, A–8; AMI, A–10; API, A–12; Boston Edison, A–16; CAS, A–14; DOE, A–1; Eckert Seamans Cherin & Mellott, A–17 (on behalf of unidentified clients in the automotive industry); EMA, A–3 (request submitted by Neal Gerber & Eisenberg); ETC, A–11 (request submitted by Van Ness Feldman); EPA, A–9; Flxible, A–6; Greenpeace, A–18; NACAA, A–7; NAFA, A–13 (request submitted by Kent & O'Connor, Inc.); NPGA, A–5 (on behalf of NPGA and Phillips 66); RFA, A–4 (request submitted by Downstream Alternatives, Inc.); UCS, A–15.

[25] The law firm Eckert Seamans Cherin & Mellott did not file a written comment.

[26] Lois E. Bennett, GM; Timothy D. Davis, Columbia Gas (representing AGA/NGVC); Robert Graham and Peter Morman, CAS; Marcel L. Halberstadt, AAMA; Nancy L. Homeister, Ford; Evan W. Johnson, MC-MD (representing NACAA); Martin S. Karl, Boston Edison; Allen R. Larson, Esq., Larson and Curry (representing Boston Edison); Paul McArdle, DOE; Denise McCourt, API; Patrick O'Connor, Kent & O'Connor (representing NAFA); Larry D. Osgood, Phillips 66 Propane Company (representing NPGA); Robert E. Reynolds, Downstream Alternatives, Inc. (representing RFA); Glyn Short, AMI; Lisa A. Stegink, Esq., Neal Gerber & Eisenberg (representing EMA); Jaime C. Steve, UCS; Lance Watt, Flxible; Ellen S. Young, Esq., Van Ness Feldman (representing ETC); Kenneth L. Zerafa, EPA. Philip J. Harter, Esq., served as the Workshop's moderator.

[27] The NPR announced that the Workshop would take place over two days, but the participants concluded discussing the agenda staff had prepared in one day. As a result, the Workshop's second day was cancelled. (Tr.), 238.

[28] 59 FR 24014, 24023.

[29] AAMA, AGA/NGVC, Boston Edison, CAS, EMA, Flxible, NPGA, and RFA.

[30] Two commenters endorsed the Commission's reliance on the Workshop transcript in its preparation of the SNPR. *See* API, I–15, cover letter at 3 (''We believe the issues expressed in the July [Workshop] were fairly addressed by the FTC in its [SNPR].''); RFA, I–3, 2 (''We believe that the changes reflected in the revised final rule were justified based on written comments and the information covered at the public workshop.'').

comments until December 19, 1994, addressing any issue they believed might bear upon the proposed rule. As described below, the Commission received 24 written comments in response to its SNPR from vehicle manufacturers,[31] fuel producers,[32] governmental entities,[33] a consumer organization,[34] organizations representing affected interests,[35] and other interested individuals.[36]

III. Labeling Requirements Proposed in the SNPR

A. Comment Suggestions Beyond Commission's Authority Under EPA 92

As noted previously, section 406(a) directs the Commission to establish labeling requirements for alternative fuels and AFVs disclosing cost and benefit information. Because this rulemaking proceeding is mandated by statute, the Commission's authority is limited to what is authorized by EPA 92. During this proceeding, however, several commenters suggested regulatory options that are beyond the Commission's statutory authority because they involve matters other than labeling requirements, alternative fuels or AFVs, and cost and benefit information.

For example, several commenters suggested that the Commission require AFV dealers to have copies of the DOE brochure available for consumer inspection and use.[37] These commenters believed that the Commission could model such a requirement on an existing EPA regulation directing automobile dealers to make available free copies of EPA's Gas Mileage Guide (a booklet comparing the fuel economy of similarly-sized new automobiles).[38] Such a requirement does not appear to be reasonably within section 406(a)'s scope, which is limited to uniform *labeling* requirements. In any event, the Commission notes that EPA's regulation was promulgated pursuant to a specific Congressional directive that EPA require dealers to provide such information to consumers.[39] In the absence of a similar Congressional directive, the Commission believes that such a requirement may be beyond its authority under EPA 92.[40]

For similar reasons, the Commission has also concluded that requiring any of the following may exceed its authority under EPA 92: (1) labeling for conventional fueled vehicles;[41] (2) that information on AFV labels be provided to consumers (in a non-label format) at the time an AFV is offered for sale;[42] (3) that ''all pertinent information'' (e.g., fuel hazards, tank capacity, refueling or recharging time, and cruising range) be disclosed in vehicle owners' manuals;[43] and (4) that a ''simple card'' describing factors consumers should consider before acquiring an AFV be placed within new and used vehicles.[44]

B. Labeling Requirements for Alternative Fuels

1. Scope of the Labeling Requirements

In the SNPR, the Commission proposed that the scope of its labeling requirements extend to three non-liquid alternative fuels: compressed natural gas (''CNG''), hydrogen gas (''hydrogen'') and electricity.[45] One comment addressed this aspect of the Commission's proposal.[46] For safety reasons, that comment recommended that the Commission limit the scope of the rule to alternative fuels that have been tested and approved for use by EPA.[47] The Commission notes that EPA 92 specifically defines the term ''alternative fuel'' to include the three fuels at issue;[48] and because they are readily available, DOE identifies them and encourages their use in its literature.[49] Furthermore, other than emission certification procedures, EPA has no procedures for certifying fuels as being safe for use.

The Commission's SNPR proposal was limited to *non-liquid* fuels because the Commission's Fuel Rating Rule contains labeling requirements for *liquid* alternative fuels. Further, the Commission proposed requirements for the non-liquid fuels that are similar to the Fuel Rating Rule's requirements for liquid alternative fuels. Although that rule serves a somewhat different purpose,[50] the Commission believes that harmonizing labeling requirements,

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[31] Ford Motor Company (''Ford''), I–4; Electro Automotive (''Electro Auto''), I–7; Toyota Motor Corporation (''Toyota''), I–11; Chrysler Corporation (''Chrysler''), I–13.

[32] Mobil Oil Corporation (''Mobil''), I–2; Unocal Corporation (''Unocal''), I–5; Commercial Electronics NGV Systems Division (''Comm Elec''), I–8; Boston Edison and Edison Electric Institute (submitted by Larson and Curry) (''Boston Edison/EEI''), I–14.

[33] U.S. Department of Energy (''DOE''), J–1; City of Chicago, Illinois (''Chicago''), J–2; California Air Resources Board (''CARB''), J–3; U.S. Department of Energy, Energy Information Administration, Energy End Use and Integrated Statistics Division (''EIA/EEU-ISD''), J–4; U.S. Department of Transportation, National Highway Traffic Safety Administration (''DOT/NHTSA''), J–5.

[34] Center for Auto Safety (''CAS''), I–12.

[35] Renewable Fuels Association (submitted by Downstream Alternatives, Inc.) (''RFA''), I–3; Engine Manufacturers Association (submitted by Neal Gerber & Eisenberg) (''EMA''), I–6; Electric Transportation Coalition (submitted by Van Ness Feldman) (''ETC''), I–9; National Association of Fleet Administrators, Inc. (''NAFA''), I–10; American Petroleum Institute (''API''), I–15; American Automobile Manufacturers Association (''AAMA''), I–16; American Gas Association and Natural Gas Vehicle Coalition (''AGA/NGVC''), I–18; Natural Gas Vehicle Producers Association (''NGVPA''), I–19.

[36] E. A. Mechtly, Ph.D., Engineering Educator, University of Illinois (''Mechtly''), I–1; Louis F. Sokol, CAMS, Metrification Consultant (''Sokol''), I–17.

[37] ETC, G–24, 6; NAFA, G–20, 3–5; NPGA (Tr.), 188–89. CAS suggested that the Commission require AFV dealers and conversion companies to provide copies of the DOE package to consumers, and that consumers acknowledge receipt by signing a designated sales document. CAS, G–17, 7; (Tr.), 174; (Supp.), G–17, 4. *See also* CAS, I–12, 1 (FTC should ''encourage availability'' of DOE brochure at AFV dealerships). CAS also proposed that the AFV label advise consumers that a free copy of the DOE brochure is available from the dealer. CAS (Supp.), G–17, 4. ETC also suggested, however, that dealers would find it in their interest to have the DOE brochures available to consumers. ETC (Tr.), 168.

[38] 40 CFR 600.401–77 to 600.407–77 (1993).

[39] *See* 15 U.S.C. 2006(b)(2) (''The EPA Administrator * * * shall prescribe rules requiring dealers to make available to prospective purchasers [fuel economy information] compiled by the EPA Administrator under paragraph (1).'').

[40] The Commission notes, however, that a DOE official at the Workshop stated that DOE would consider distributing copies of the information package to AFV dealerships. DOE (Tr.), 227–28. In its comment, RFA wrote to ''encourage some formal review process'' of that brochure by industry. RFA, I–3, 2.

[41] AGA/NGVC, G–6, 11 (requiring disclosures only for AFVs could unnecessarily raise consumer concerns about these products).

[42] NAFA, I–10, 2; G–20, 2 (''For example, when a representative of a conversion company meets with a consumer to offer to convert a vehicle, the representative would provide the consumer with the appropriate information in a format similar to the vehicle label.''). NAFA based this suggestion on its concern that consumers would not always be able to inspect labels prior to acquisition. *Id.*

[43] NACAA, H–6, 2. The Commission also believes that one suggestion (that it develop an information bulletin discussing pertinent considerations), while not beyond its authority, may not be necessary because of DOE's mandate to complete the same task. CEC, H–8, 1–2, 6; NAFA, G–20, 3. In any event, the Commission normally issues consumer education materials after new rules are issued, and that will be considered when this proceeding is completed.

[44] AAMA, I–16, 6.

[45] These are the only non-liquid fuels defined as ''alternative fuels'' in EPA 92. 42 U.S.C. 13211(2) (Supp. IV 1993).

[46] Five other comments generally supported all aspects of the Commission's alternative fuels labeling proposal without addressing this specific issue. Boston Edison/EEI, I–14, 4; Chicago, J–2, 2–3; DOE, J–1, 2; EIA/EEU–ISD, J–4, 1; RFA, I–3, 2. In addition, comments on an earlier Commission proposal similarly supported limiting the scope of this proceeding to non-liquid alternative fuels. API, G–25, 1–3; CEC, H–8, 1–6; Mobil, G–2, 1–3; NAFA, G–20, 1; NPGA, G–18, 2–3; Phillips 66, G–15, 1; RFA (Supp.), G–5, 1; SIGMA, G–23, 1; Sun, G–1, 1.

[47] Chicago, J–2, 2–3.

[48] 42 U.S.C. 13211(2) (Supp. IV 1993).

[49] U.S. Dep't of Energy, Taking An Alternative Route, B–33.

[50] The purpose of the EPA 92 amendments to Title II of the Petroleum Marketing Practices Act, 15 U.S.C. 2821–2825, was to give purchasers information they need to choose the correct type or grade of fuel for their vehicles. 58 FR 41356. Section 406(a)'s purpose is to provide consumers with appropriate cost and benefit information to enable them to make informed choices among alternative fuels and AFVs. 59 FR 59666.

when practicable, is appropriate. Thus, the Commission's SNPR proposal had the effect of imposing labeling requirements on non-liquid alternative fuels that are similar to those that currently exist for liquid alternative fuels.

After considering the record, the Commission has determined that the scope of the rule shall be limited to the non-liquid alternative fuels CNG, hydrogen and electricity.[51] This will result in equal, uniform, fuel-neutral labeling requirements for all alternative fuels that are currently used or contemplated for use as automotive fuels. Further, in accordance with section 406(a)'s directive to review the rule ''periodically to reflect the most recent available information,'' [52] the Commission will supplement the list of covered fuels if and when DOE designates new non-liquid fuels as alternative fuels.[53]

2. Label Disclosures for Non-liquid Alternative Fuels

a. *SNPR proposals.* In the SNPR, the Commission proposed that retailers selling CNG, hydrogen and electricity to consumers post standard labels identifying the commonly used names of those fuels on public fuel dispensers (including electric dispensers used to recharge batteries in electric vehicles).[54] The labels would be placed conspicuously in full view of consumers (i.e., ultimate purchasers) and as near as reasonably practical to the fuel's unit price disclosure. No comments were submitted regarding this facet of the SNPR proposal. The Commission, therefore, has determined to adopt these requirements in the final rule for the reasons stated in the SNPR.[55]

With respect to CNG and hydrogen, the Commission also proposed requiring disclosure of the fuel's principal component and permitting disclosure of other components,[56] expressed as minimum molecular percentages (''minimum mole percent'').[57] These proposals are analogous to provisions in the Fuel Rating Rule pertaining to liquid alternative fuels.[58] In the SNPR, the Commission tentatively concluded that its proposal to require disclosure of the minimum methane content of CNG would assist consumers in purchasing CNG that satisfies requirements specified by engine manufacturers to meet performance and emissions certification levels.[59] The Commission also concluded that its proposal would be consistent with the Fuel Rating Rule's requirements for liquid alternative fuels,[60] and would assist consumers in identifying the proper fuel for their vehicles. The Commission further noted that because CNG exists with too low a methane content to be used as a transportation fuel,[61] requiring disclosure of the minimum methane content would help ensure that CNG that is not suitable for use as a transportation fuel is not inadvertently sold for that purpose. Although CNG sold as a transportation fuel must always meet minimum vehicle needs, information about minimum methane content could help assure consumers that the CNG they are purchasing will meet their engines' needs.[62]

The Commission also recognized that electricity used for recharging electric vehicle (''EV'') batteries might need to be subject to different labeling disclosures.[63] Accordingly, for electricity, the SNPR proposed requiring that labels on public electric vehicle fuel dispensing systems include the commonly used name of the fuel, kilowatt capacity, voltage, current (either AC or DC), amperage and type of charger (either conductive or inductive).[64] In the SNPR, the Commission tentatively concluded that such disclosures were the minimum operating parameters that would be necessary to protect consumers operating the equipment, the vehicles whose batteries would be charged, as well as the charging equipment.[65]

Sixteen comments addressed the issues raised in the SNPR. Five comments generally supported the Commission's proposals in their entirety because if adopted, the proposals would provide appropriate and useful information to consumers attempting to make alternative fuel purchasing decisions.[66] The remaining eleven comments are discussed in the following section and in section III(B)(3) *infra.*

b. *Comments on SNPR concerning CNG.* Two comments questioned whether the Commission's SNPR proposal to require disclosure of the minimum methane content of CNG would be helpful to consumers in the absence of standards requiring a minimum methane content for CNG vehicle fuel.[67] The Commission believes

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[51] *See* 59 FR 59666, 59669–59670 for a general description of the qualities of the alternative fuels covered by the final rule.

[52] 42 U.S.C. 13232(a) (Supp. IV 1993).

[53] The Secretary of the Department of Energy has the responsibility to designate, by rule, new fuels as alternative fuels. 42 U.S.C. 13211(2) (Supp. IV 1993).

[54] *See* proposed rule §§ 309.1(q) and 309.15, 59 FR 59666, 59704, 59706.

[55] 59 FR 59666, 59671–59672.

[56] CNG vehicle fuel is composed primarily of methane with small percentages of ethane, propane, butane, nitrogen, helium, carbon dioxide and hydrogen sulfide. Hydrogen vehicle fuel is composed primarily of hydrogen, with very small percentages of water, oxygen, and nitrogen.

[57] Under the international system of units, ''the mole is the amount of substance of a system which contains as many elementary entities as there are atoms in 0.012 kilogram of carbon 12. When the mole is used, the elementary entities must be specified and may be atoms, molecules, ions, electrons, other particles, or specified groups of such particles.'' ''The International System of Units (SI),'' NIST Special Publication 330 (1991 edition), August 1991, U.S. Department of Commerce, National Institute of Standards and Technology (hereinafter ''NIST Publication 330''), B–43, 4–5.

[58] 16 CFR 306.10(b)(1) and 306.10(f) (1994).

[59] 59 FR 59666, 59671. *See* AAMA (Tr.), 37, 62 (label should identify the fuel), 81 (at this time a minimum methane content disclosure is appropriate); Flxible (Tr.), 74, (Supp.), G–12, 2 (dispensers for CNG should be labeled with the minimum methane content due to the requirements dictated by some engine manufacturers to meet performance and emissions certification levels); RFA, G–5, 3; Sun, G–1, 1.

[60] 59 FR 59666, 59671. *See* API, G–25, 1–3 (until a private, voluntary, consensus standards organization develops specifications for alternative fuels, additional disclosure requirements are inappropriate; expand Fuel Rating Rule to cover non-liquid alternative fuels to encourage fuel-neutral regulatory scheme; and labeling of principal component may provide useful information to consumers); EIA/EEU–ISD, H–2, 1 (expressed general support for the proposed rule); Mobil, G–2, 1–3 (the proposed label is consistent with the Fuel Rating Rule, and no other disclosures should be required); NAFA, G–20, 1 (endorses a uniform labeling requirement for alternative fuels); NPGA, G–18, 2–3 (extremely important that all alternative fuels be subject to essentially identical requirements, and the Commission's proposal is sufficient under the statutory requirements), (Tr.) 48–49 (issue is how to get the consumer to the correct pump, and in that respect, the orange labels for liquid alternative fuels do an effective job); Phillips 66, G–15, 1; RFA, G–5, 2–3 (the benefit of providing additional information beyond that proposed is not well established), (Tr.), 28, 31, 38, (Supp.), G–5, 1 (the current labeling requirements for alternative fuels under the Fuel Rating Rule are adequate and the same labeling requirements should be extended to gaseous fuels); SIGMA, G–23, 1 (supports the proposed requirements and urges the Commission to adopt the proposed rule without change); Sun, G–1, 1–2 (agrees with the Commission's proposal to extend the Fuel Rating Rule labeling requirements to non-liquid alternative fuels thereby placing equal regulatory requirements on all alternative fuels).

[61] *See* Flxible (Tr.), 74–77.

[62] 59 FR 59666, 59671.

[63] Unlike the other alternative fuels, the electricity used to recharge the batteries that power electric vehicles is not dispensed from a conventional fuel pump. It is dispensed from an electrical dispenser or recharging station and produces different physical effects depending on the type of dispenser or charging equipment through which it is dispensed. Therefore, the Commission recognized that electricity used as a vehicle fuel might have to be rated in accordance with the characteristics of the specific electrical dispenser or recharging station.

[64] *See* proposed rule §§ 309.1(q)(2) and 309.15, 59 FR 59666, 59704, 59706.

[65] The specific bases for the Commission's SNPR proposal are discussed in more detail at 59 FR 59666, 59671–59672.

[66] Boston Edison/EEI, I–14, 4; Chicago, J–2, 2–3; DOE, J–1, 2; EIA/EEU–ISD, J–4, 1; RFA, I–3, 2.

[67] API, I–15, 2; Mobil, I–2, 3.

that consensus standards specifying a minimum methane content for CNG as a vehicle fuel would be helpful, but recognizes that they do not presently exist. The Commission's proposed labeling approach for CNG and hydrogen provides a basic measure of fuel quality and, used in conjunction with the owner's manual containing the vehicle manufacturer's fuel recommendations, it provides consumers with the information necessary to select the fuel on which their vehicle has been designed to perform.[68]

Accordingly, the Commission has determined that the fuel rating for CNG and hydrogen must include the commonly used name of the fuel and the amount, expressed as a minimum molecular percentage, of the principal component of the fuel. The label also may include a disclosure of other components as minimum molecular percentages, if desired.[69] This rating approach will provide consumers with information necessary to make informed fuel purchasing decisions. It also will provide fuel producers and marketers with the flexibility to develop and blend fuels appropriate for location and climate, consistent with United States Environmental Protection Agency and original equipment manufacturer requirements. The Commission's action, therefore, will assist in the development and use of non-liquid alternative fuels and alternative fueled vehicles.

c. *Comments on SNPR concerning electricity.* The Commission proposed in the SNPR that the electric recharging station label disclose the voltage at which electrical power is supplied by the electric charging equipment, the maximum current in amperes that can be delivered, whether the charging equipment supplies alternating or direct current, whether the unit is a conductive charger (a plug on a cord) or an inductive charger (a paddle in a port system), and the kilowatt capacity of the charging equipment to tell consumers how quickly their vehicles can recharge. Three comments specifically related to these proposals. One comment questioned the need for a kilowatt capacity disclosure since consumers could derive it from the proposed voltage/amperage disclosure for electricity dispensers. The comment also recommended that when two charging methods are available from the same electricity dispenser (e.g., 240 vac/40 amps and 120 vac/15 amps) the Commission should require that both methods be disclosed.[70]

An explicit kilowatt capacity disclosure is an important dispenser parameter that is useful in assisting consumers to determine immediately how quickly their vehicles' batteries will recharge. Although the Commission acknowledges that kilowatt capacity can be calculated from the voltage/amperage disclosure, the kilowatt capacity disclosure obviates the need for engaging in mathematical calculations at the dispenser. The Commission has decided to address the issue of the availability of multiple charging methods from the same dispenser by requiring in the final rule that they both be disclosed, as recommended by the comment, but on separate labels on the dispenser.[71]

Another comment recommended that the Commission's amperage disclosure on the label be expressed as an ''A'' instead of by the word ''amps,'' as proposed.[72] The Commission has concluded, however, that use of the word ''amps'' on the label, because it is more descriptive than an ''A,'' may make consumers more familiar with the electricity refueling infrastructure and, therefore, be more useful in assisting consumers to locate the correct electricity dispenser. Finally, one comment suggested that the efficiency of electric vehicle chargers is a parameter that perhaps should eventually appear on charger labels once standardized test procedures are developed to determine efficiency.[73] The Commission notes that electric vehicle chargers are not 100 percent efficient. Some energy is lost to heat in the process of converting the energy that is supplied to the charger to a form that is usable by the vehicle battery. The Commission will monitor the development of standardized test procedures to determine electric vehicle charger efficiency, and consider including this factor when more information becomes available.

Accordingly, after considering the comments on its SNPR proposal, the Commission has determined that labels on public electric vehicle fuel dispensing systems shall include the commonly used name of the fuel (e.g., electricity), kilowatt capacity, voltage, current (either AC or DC), amperage and type of charger (either conductive or inductive).[74] Such disclosures will assist consumers in locating electric fuel dispensers that are compatible with their vehicles, and in determining how much time it will take for their vehicles' batteries to recharge.

d. Summary. In summary, the requirements for CNG, hydrogen and electricity will provide consumers with the most important pieces of information needed when refueling: fuel type and composition (or, for electricity, other relevant parameters). Although in the absence of such requirements sellers could be expected to identify the fuels sold, they may not do so in a standardized format that assists consumers in identifying the proper fuel quickly. Furthermore, it is uncertain absent these requirements whether sellers would provide information regarding the precise composition of the fuels, or relevant parameters of the EV fuel dispenser.

3. Label Disclosures Considered but not Adopted in Final Rule

In addition, the Commission concludes that other information on the fuel dispenser concerning alternative fuels is unlikely to be useful in most instances. For consumers with dedicated AFVs (i.e., vehicles capable of operating on only one fuel), the selection process between competing fuels is concluded once an AFV is acquired. Consumers driving dual or flexible fueled vehicles (i.e., vehicles capable of being powered both by a conventional and an alternative fuel) will be limited to purchasing fuels meeting their engines' requirements. Thus, providing consumers with other information designed to permit comparisons among various types of alternative fuels is best done prior to the time the vehicle is acquired.

Further, excluding less important information avoids information overload. In contrast to vehicle purchases, fuel purchases typically occur in a quick transaction. In a report to Congress assessing the need for a uniform national label on fuel pumps, the Commission noted that time constraints may affect how consumers read, understand, and use information.[75] Indeed, ''studies show that less accurate information processing occurs under time constraints; test subjects focus on fewer pieces of information and unduly emphasize negative information.'' [76] Simplicity therefore is an even greater

[68] Although at present CNG vehicles apparently are designed to run on the broad range of methane content in available vehicle CNG, in the future manufacturers may design vehicles favoring specific, higher methane contents.

[69] *See* final rule §§ 309.1(q)(1) and 309.15 *infra.*

[70] Toyota, I–11, 2.

[71] *See* proposed rule § 309.15, 59 FR 59666, 59706, and final rule § 309.15 *infra.*

[72] Sokol, I–17, 1.

[73] CARB, J–3, 1.

[74] *See* final rule §§ 309.1(q)(2) and 309.15 *infra.*

[75] Federal Trade Commission, Study of a Uniform National Label for Devices That Dispense Automotive Fuels to Consumers (1993), at 29.

[76] *Id.*, at 29 n.152.

consideration in the labeling of fuels than in the labeling of AFVs.

In formulating its labeling requirements, the Commission sought to reconcile several competing concerns. As noted previously, EPA 92 directs the Commission to develop uniform labels disclosing appropriate cost and benefit information. However, in determining what information is appropriate, the Commission must consider the problems associated with developing and publishing such information on simple labels. Given this context, and after considering the comments, the Commission considered and rejected in the SNPR several alternative disclosures for dispenser labels suggested by various comments. The SNPR generated additional comments, however, as discussed below. An analysis of these comments has not persuaded the Commission to require any of the previously rejected disclosures.

a. *Octane rating.* In the SNPR, the Commission rejected a proposal that it require the posting of octane ratings for non-liquid alternative fuels. Three comments were submitted in response to that tentative determination in the SNPR. To prevent commercial, heavy-duty vehicle and fleet operators from misfueling and experiencing related problems, EMA recommended that the Commission require the posting of octane ratings for all non-liquid alternative fuels.[77] Due to the variability in the fuel quality of natural gas, Commercial Electronics recommended that the Commission require disclosure of CNG's octane rating.[78] API, however, stated that the non-liquid alternative fuel dispenser labels should not include octane ratings.[79]

After considering the comments submitted, the Commission has determined not to require the posting of octane ratings for CNG and hydrogen. To the extent that commercial fleet operators have their own fueling facilities, they can specify a required octane rating and insist in contracts with their suppliers that they determine such rating by an agreed method for the fuel purchased. Commercial operators might also obtain such information if, for example, it were posted voluntarily on fuel dispensers. Generally, however, as explained in the SNPR, the Commission concludes that octane ratings for alternative fuels are high enough to avoid engine knock problems in vehicles presently designed to use alternative fuels, and such ratings do not provide significant information relevant to vehicle performance of alternative fueled vehicles.[80] In addition, the octane ratings of a given type of alternative fuel would not vary significantly.[81] Further, there might be practical problems in implementing a reliable octane certification and posting program for alternative liquid automotive fuels, because of the lack of a standardized test method, such as an ASTM-approved test method for determining octane ratings of such fuels.[82]

There also are significant disadvantages to requiring octane posting and certification for alternative fuels. In particular, the Commission is reluctant to require a disclosure that might mislead consumers about the benefits of alternative fuels, the octane ratings of which exceed those of gasoline. Further, it might foster consumer misperceptions that higher octane necessarily signifies higher quality and better performance. Such a disclosure also might cause consumers to believe that gasoline and alternative fuels are interchangeable, or that different alternative fuels are interchangeable with one another.

b. *Comparative information based upon BTUs or gasoline-gallon-equivalents.* In the SNPR, the Commission considered but rejected proposals that the Commission require the use of alternative fuel labels that either: (1) advise consumers of the price of an alternative fuel and the quantity of the alternative fuel dispensed in terms of gasoline-gallon-equivalent (''GGE'') units based on the energy contents of the alternative fuels, or (2) identify the heating value or energy content of a fuel expressed in British thermal units (''BTUs''). In response to the SNPR, the two comments addressing this issue supported the Commission's position, recommending that the Commission not adopt a labeling approach that would require disclosure of comparative information based upon BTUs or gasoline-gallon-equivalents.[83] Accordingly, for the reasons stated in the SNPR, the Commission is not requiring such disclosures on fuel dispenser labels.[84]

c. *Performance effects (cruising range).* In the SNPR, the Commission considered and rejected a proposal that the Commission require fuel dispenser labels to advise consumers that the cruising range of a vehicle when running on an alternative fuel will be less than when the vehicle is running on gasoline, due to the alternative fuel's lower energy content. In response to the SNPR, the one comment addressing this issue supported the Commission's position, opposing a requirement that dispenser labels include performance effects of the non-liquid alternative fuel.[85] Accordingly, for the reasons stated in the SNPR, the Commission is not requiring disclosure of performance effects as an element of fuel dispenser labels.[86]

However, the Commission recognizes that information relating to cruising range would be useful to consumers when choosing a vehicle or deciding whether to convert an existing vehicle to an alternative fuel. Therefore, the Commission has determined that information relating to cruising range would be appropriate on labels it is requiring for covered AFVs, as discussed in section III(C) *infra.*

d. *Compliance with material specifications.* In the SNPR, the Commission rejected a proposal that it require that dispenser labels indicate whether the fuel meets the alternative fuel specifications defined by the California Air Resources Board in

[77] EMA, I–6, 2–4.

[78] Comm Elec, I–8, 2–7.

[79] API, I–15, 1.

[80] 59 FR 59666, 59673. *See* AGA/NGVC, I–18, Attachment at 8 (The antiknock performance of natural gas is best for pure methane or methane/inert gas mixtures, and declines somewhat with increasing concentrations of non-methane hydrocarbons. This effect is not usually significant for the typical range of pipeline gas composition, but may become important [in the future] in high-compression engines burning unprocessed gas or propane-air mixtures).

[81] AGA/NGVC, G–6, 5–6 (octane levels for natural gas are not likely to vary at different retailers); and Phillips 66/NPGA (Tr.), 49–50.

[82] AGA/NGVC, I–18, Attachment at 8 (no standard octane testing methods exist for natural gas); Phillips 66/NPGA (Tr.), 49–50 (there are no standards for determining the octane ratings of CNG or hydrogen).

[83] API, I–15, 1; Mobil, I–2, 2 (In summary, comparative type cost data are not conducive to fuel labeling. Labels that provide consumer information already exist today in the form of pricing information that enables consumers to make choices and comparisons as required by section 406 of EPA 92. The National Conference on Weights and Measures is currently in the process of setting the measurement standard for alternative fuels. A uniform unit of measure, such as the gasoline equivalent gallon, will provide consumers additional economic information helpful in making informed purchasing decisions).

[84] 59 FR 59666, 59673–59674 (e.g., GGE disclosures are not conducive to keeping the fuel label simple, as required by EPA 92; this information is more an equipment metering issue that is more properly addressed by weights and measures organizations; the energy content of a fuel, as measured by its BTU rating, does not always accurately reflect actual fuel economy).

[85] API, I–15, 1.

[86] 59 FR 59666, 59674 (e.g., cruising range is not necessarily less when operating on an alternative fuel; a general statement on a fuel dispenser label relating to cruising range would not provide sufficient comparative information to consumers to enable them to make reasonable purchasing choices and comparisons between fuels of the same type).

1993.[87] In rejecting the proposal, the Commission stated, in part, that California's specifications were not developed by a consensus process, were developed for California's particular needs and, therefore, may not be practical for the rest of the country.[88] In the SNPR, the Commission also rejected a proposal that CNG dispenser labels indicate whether the fuel meets the Society of Automotive Engineers' (''SAE'') ''recommended practice'' for CNG called J1616. In rejecting that proposal, the Commission stated that recommended practice SAE J1616 was issued as a guide to address the composition of natural gas used as an automotive fuel, not as a standard for CNG. The guide states it anticipates that a CNG standard will evolve, but emphasizes that experience and more technical knowledge are needed.[89]

Three comments responded to those determinations in the SNPR. These comments stated that inasmuch as consistent fuel quality is required to ensure proper vehicle operation, including emissions control, the Commission should require that dispenser labels indicate compliance or non-compliance with fuel quality specifications and refueling equipment standards, with specific references to each, when they are developed for CNG and hydrogen.[90] A disclosure based on accepted and approved fuel specifications and standards could provide meaningful comparative information to consumers relating to the quality of the fuel they are purchasing. However, the aforementioned comments appear to confirm that adequate, generally accepted standards and specifications suitable for nationwide use do not presently exist for most alternative fuels, and specifically do not exist for CNG or hydrogen. Therefore, the Commission has determined not to require that fuel dispenser labels guarantee the delivery of fuels meeting certain specifications.

The Commission, however, continues to favor the development of specifications and standards that define alternative fuels by a consensus standards-setting organization, such as ASTM, or by a government agency with appropriate engineering and technical expertise to set such specifications and standards for nationwide use. This type of standards development would include participation by affected parties such as alternative fuel producers and providers, engine manufacturers, regulators, consumers, and organizations or government agencies with pertinent technical expertise. It also would provide a mechanism for evaluating proposed test methods and procedures necessary to determine compliance with the standards. The Commission will monitor the development of alternative fuel standards and consider including them as an element of the dispenser labels when more information becomes available.

e. *Environmental benefits (emissions).* In the SNPR, the Commission considered and rejected a proposal that the Commission require fuel dispenser labels to generally advise consumers of the environmental benefits of alternative fuels.[91] In response to the SNPR, the one comment addressing this issue supported the Commission's position.[92] Accordingly, for the reasons stated in the SNPR, the Commission is not requiring that fuel dispenser labels indicate the environmental benefits of alternative fuels.[93]

However, the Commission recognizes that information relating to emissions and the environmental benefits of alternative fuels would be useful to consumers when choosing an alternatively fueled vehicle or deciding whether to convert an existing vehicle to an alternative fuel. Therefore, the Commission has determined that information relating to emissions would be appropriate on the labels it is requiring for covered AFVs, as discussed in section III(C) *infra.*

f. *Pressure.* In the SNPR, the Commission considered and rejected a proposal that the Commission require CNG dispenser labels to display the fueling pressure, either 2,400, 3,000 or 3,600 P.S.I. (pounds per square inch), and the nozzle type to indicate whether dispenser fueling pressure is compatible with CNG vehicle tank storage pressure.[94] The two comments on the Commission's SNPR proposal addressing this issue recommended that the Commission require that CNG dispenser labels indicate the nozzle type and corresponding fill pressure of the CNG dispenser, to avoid consumer inconvenience at the CNG fueling site.[95]

The Commission agrees that fueling pressure is useful information. The industry, however, already has taken independent steps to address this issue. Specifically, the industry has developed standards for pressure coding dispenser/vehicle CNG connectors so that consumers will not be able to overfuel a low pressure vehicle from a high pressure dispenser.[96] Further, the use of standard CNG vehicle fueling connectors complying with the ANSI/AGA NGV1 specification is required at public dispensing points by National Fire Protection Association safety standard 52 (''NFPA 52''), which is a fire code adopted by most, if not all, states.[97] Accordingly, the Commission has determined that requiring the disclosure of fueling pressure and nozzle type on CNG dispenser labels is unnecessary at this time.

g. *Safety warnings.* In the SNPR, the Commission considered but rejected proposing safety warnings as an element of the alternative fuel labels.[98] The one comment on the Commission's SNPR proposal addressing this issue recommended that the Commission require that non-liquid alternative fuel dispenser labels include information about the fuel's potential hazards and limitations on use.[99]

The Commission notes that safety standards for operation of motor vehicle fuel-dispensing stations are covered by the Uniform Fire Code.[100] Further, to

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[87] *See* Specifications for Compressed Natural Gas, Title 13, California Code of Regulations, section 2292.5 (1993), B–41; Specifications for Hydrogen, Title 13, California Code of Regulations, section 2292.7 (1993), B–42.

[88] 59 FR 59666, 59674.

[89] Society of Automotive Engineers, ''Recommended Practice for Compressed Natural Gas Vehicle Fuel,'' SAE J1616, B–40, 16.

[90] AAMA, I–16, 7–8; EMA, I–6, 2–4; NGVPA, I–19, 1.

[91] AMI, G–3, 2; Phillips 66/NPGA (Tr.), 51.

[92] API, I–15, 1.

[93] 59 FR 59666, 59675 (e.g., a statement on a fuel dispenser label advising consumers of the environmental benefits of alternative fuels would not provide sufficient information to assist consumers in making choices and comparisons between fuels of the same type).

[94] 59 FR 59666, 59675. *See* Flxible (Supp.), G–12, 2; Thomas BB, G–10, 1; Phillips 66/NPGA (Tr.), 51; AGA/NGVC (Tr.), 103–104.

[95] AAMA, I–16, 8; NGVPA, I–19, 1.

[96] *See* ANSI/AGA NGV1–1994 American National Standard For Compressed Natural Gas Vehicle (NGV) Fueling Connection Devices, attached to AGA/NGVC's comment, G–6.

[97] ANSI/NFPA 52 Compressed Natural Gas (CNG) Vehicular Fuel Systems, 1992, B–39. *See also* Stookey, *An Analysis of the 1994 Uniform Fire Code Requirements for CNG Fuel Stations*, Nat. Gas Fuels, June 1994, B–48, 27–30.

[98] 59 FR 59666, 59675.

[99] EMA, I–6, 3.

[100] For example, in July 1993, the voting membership of the Uniform Fire Code (''UFC'') and Uniform Fire Code Standards adopted new regulations for the design, construction and operation of CNG motor vehicle fuel-dispensing stations. The UFC voting membership is a democratic code development organization that includes fire and building officials, design professionals, equipment manufacturers and trade organizations. The UFC's minimum requirements are primarily based on the requirements of NFPA 52, ''Standard for CNG Vehicular Fueling Systems,'' 1992 edition. The Uniform Fire Code Standards are a model code that establishes requirements for building and site fire protection, the safe storage and use of hazardous materials, and the fire safety and fire protection designs of the Uniform Building Code. Article 52 of the 1994 UFC addresses the design, construction, commissioning and operation

some extent, the fuel labeling requirements, particularly those for electric vehicle (''EV'') public dispenser systems, implicitly consider safety issues for refueling by directing consumers to the proper fuel dispenser. Beyond this (and fire code requirements that are already in place), consumers may find safety information about various fuels more pertinent when purchasing an AFV than when refueling. Thus, the Commission is not persuaded that including a safety warning statement on a fuel dispenser label would help consumers make reasonable fuel choices and comparisons. The Commission has determined that rather than require that safety disclosures appear on fuel dispenser labels, it will require a reference to DOE's consumer information brochure and DOT/NHTSA's Vehicle Safety Hotline on labels for covered AFVs, as discussed in section III(C) *infra.* The DOT/NHTSA Hotline acts as a clearinghouse and can refer consumers to other sources where, for example, information can be obtained about how to safely refuel CNG vehicles. Further, the Commission anticipates that a marketer's refueling instructions, whether appearing in an AFV owner's manual or on the fuel dispenser, will discuss or incorporate relevant safety measures. However, if in the future information demonstrates a need for the Commission to require safety-related disclosures on the dispenser labels, the Commission can revisit this issue.

h. *Refueling instructions.* In the SNPR, the Commission considered but rejected proposing refueling instructions as an element of the fuel dispenser labels. No comments were submitted regarding this tentative determination. Therefore, for the reasons stated in the SNPR, the Commission has determined not to require such disclosures.[101]

i. *Wobbe number.* In the SNPR, the Commission considered but rejected proposing the Wobbe number as an element of the CNG dispenser label. The one comment addressing this issue recommended that the Commission require that CNG fuel dispenser labels include the fuel's Wobbe number, a measure of its air-fuel metering properties.[102] Although AGA/NGVC recommended that the Commission require disclosure of the Wobbe number, it also pointed out that all gas pipelines and utilities monitor and control closely the Wobbe number of natural gas. For gas distributed in most of the United States, AGA/NGVC stated that the Wobbe number typically is maintained between 1320 and 1360, well within the range recommended for natural gas vehicle fuel by SAE J1616 (1300–1420).[103]

After considering AGA/NGVC's comment, the Commission is not persuaded that the purported benefits to consumers of including the Wobbe number on CNG labels are sufficiently significant to justify requiring its disclosure. Depending on the fuel metering technology, variations in the Wobbe number may slightly affect engine performance and emissions. The effect of variations in the Wobbe number for gaseous-fueled vehicles is similar to the effect of variations in the fuel energy content of gasoline in conventional vehicles. Further, modern spark-ignition engines are able to compensate for reasonable variations in the Wobbe number, just as they compensate for variations in gasoline energy content due to refining differences or use of alcohol blends.[104] Wobbe numbers for natural gas vehicle fuels also appear to be high enough to avoid engine problems in vehicles presently designed to use CNG. While the Wobbe number may be important to engine manufacturers and fuel producers as an important element of a fuel specification, it would not appear to provide consumers with significant additional information relevant to vehicle performance. Accordingly, the Commission has determined not to require disclosure of the Wobbe number on CNG dispenser labels.

4. Additional Requirements of Final Rule

a. *Label size and format.* In the SNPR, the Commission proposed that labels for non-liquid alternative fuels follow the same standardized size and format requirements as those for liquid alternative fuels under the Fuel Rating Rule.[105] Labels required by the Fuel Rating Rule are 3 inches wide by 2½ inches long, with process black type on an orange background.[106] Although section 406(a) does not specify size and format standards for alternative fuel labels, it directs the Commission ''to establish uniform labeling requirements, to the greatest extent practicable.'' It also specifies that ''[r]equired labeling under the rule shall be simple and, where appropriate, consolidated with other labels providing information to the consumer.'' [107]

Two comments addressed this proposal. Both supported the Commission's proposal because it promoted consistency in the labeling of all alternative fuels.[108] Accordingly, the Commission has determined to require that labels for non-liquid alternative fuels follow the same standardized size and format requirements as those for liquid alternative fuels under the Fuel Rating Rule.[109] Further, to keep the labels uniform and simple, the Commission is not requiring any label consolidation.

b. *Substantiation, certification, and recordkeeping requirements.* In the SNPR, to ensure the accuracy of the required dispenser labels, the Commission proposed substantiation, certification, and recordkeeping requirements for importers, producers, refiners and distributors of gaseous alternative fuels, and manufacturers and distributors of electric vehicle fuel dispensing systems. The Commission also proposed substantiation and recordkeeping requirements for retail sellers of the three non-liquid alternative vehicle fuels.[110] The Commission based its SNPR proposal on its conclusion that the requirements are justified because they are rationally related to the establishment of ''uniform labeling requirements'' that provide important information to consumers.[111] As described below, several comments addressed two aspects of the Commission's proposal. The comments related to who should bear the burden for substantiating the fuel rating for CNG, and whether a particular ASTM

of all motor vehicle fuel-dispensing stations. *See* Stookey, *An Analysis of the 1994 Uniform Fire Code Requirements for CNG Fuel Stations,* Nat. Gas Fuels, June 1994, B–48, 27.

[101] 59 FR 59666, 59675 (e.g., this information can be expected to be provided voluntarily).

[102] AGA/NGVC, I–18, 8–11.

[103] *Id.* AGA/NGVC had previously opposed a Wobbe number disclosure, stating it would be so difficult to explain that consumers would not find it useful (AGA/NGVC (Tr.), 43).

[104] AGA/NGVC, I–18, Attachment at 5.

[105] *See* proposed rule § 309.17, 59 FR 59666, 59706–59707. Several comments received during this proceeding had recommended that labels for non-liquid alternative fuels follow the same size and format requirements as those for liquid alternative fuels under the Fuel Rating Rule. The reasons given for keeping the requirements the same were: to promote consistency, fairness and equity, and to keep information simple so that consumers can easily understand the labels (AGA/NGVC, G–6, 8; API, G–25, 4; Mobil, G–2, 4; NPGA, G–18, 4; RFA, G–5, 4; SIGMA, G–23, 1; Sun, G–1, 2; Thomas BB, G–10, 2).

[106] 16 CFR 306.12 (1994).

[107] In the NPR, the Commission proposed and rejected the idea of consolidating the non-liquid alternative fuel labels with other mandatory labels (59 FR 24014, 24018). The one comment addressing this issue agreed that consolidation would appear to provide no benefit and would only lead to public confusion (TVA, H–5, 1).

[108] API, I–15, 4; Mobil, I–2, 5.

[109] See 59 FR 59666, 59676. *See also* final rule § 309.17 *infra.*

[110] *See* proposed rule §§ 309.10–309.16, 59 FR 59666, 59704–59706.

[111] *See* 59 FR 59666, 59676–59679.

test method for determining the minimum molecular percent of CNG should be required. Because there were no comments on the other facets of the substantiation, certification and recordkeeping provisions proposed in the SNPR, the Commission has determined to issue them as proposed. These requirements are explained below.

In the SNPR the Commission proposed, in part, that *importers, producers* and *refiners* of natural gas comply with the proposed rule's CNG fuel rating determination, certification and recordkeeping requirements, which includes determining and certifying the minimum percentage of methane in natural gas.[112] The Commission based its proposal on its conclusion that it would be impractical, and probably more expensive to the consumer, to require *retail* sellers to test each delivery of a gaseous fuel. In making disclosures to consumers, retail sellers of alternative fuels, therefore, could rely on the accuracy of the information provided to them from gaseous fuel importers, producers, refiners and distributors.

Three comments recommended that the Commission not impose such requirements on importers and producers of natural gas because the requirements would be overly burdensome, and do not reflect current industry practice in the distribution of natural gas.[113] According to the comments, producers of natural gas currently adhere to a heating value specification as required by their customers (i.e., local natural gas distribution companies and/or natural gas utilities). Most producers currently do not test for or certify the methane content of the natural gas they sell. Furthermore, the comments state that this information would be of little value at the retail level because natural gas distributors (i.e., utilities) purchase natural gas from a multitude of producers, blend it together, test it, and distribute it for home and industry use, as well as for retail sale.[114]

Two of the comments recommended that the Commission require natural gas *distributors/utilities* to comply with the fuel rating determination, certification and recordkeeping requirements that the Commission proposed for natural gas importers and producers.[115] On the other hand, AGA/NGVC recommended that the fuel rating determination and recordkeeping requirements be imposed only on CNG *retailers* since they market the fuel to consumers. AGA/NGVC contended that if a retailer cannot verify the fuel rating, it can insist in contracts with its suppliers that they determine the fuel rating. Thus, companies interested in profiting from selling natural gas to retailers will view the testing as the cost of doing business and will decide whether to perform the test. AGA/NGVC also stated, though, that in some cases local utilities *will* be heavily involved in the marketing and selling of natural gas transportation fuel. In those instances, AGA/NGVC recommends that the Commission require such *distributors* to determine and certify the fuel rating of the natural gas they supply.[116] Unocal commented that the Commission should permit natural gas retailers to rely on their suppliers (*distributors/utilities*) for fuel rating certifications to substantiate the information displayed on the CNG dispenser labels.[117]

In response, the Commission notes that information about the methane content of natural gas would be useful to distributors who blend natural gas and transfer it as natural gas vehicle fuel, because they could use such information in determining and thereafter certifying its fuel rating.[118] The Commission notes further that, in most cases, it is necessary to upgrade natural gas to pipeline specifications in a gas processing plant before injecting it into the transportation and distribution network. In order to assure consistent combustion behavior, major natural gas pipelines generally impose specifications on the composition of the gas they will accept for transport. These specifications typically limit the percentage of propane, butane, and higher hydrocarbons, and stipulate acceptable ranges for the heating value, and the Wobbe number.[119] For example, water and hydrogen sulfide must be removed to prevent corrosion damage to the pipeline network, and excess amounts of higher hydrocarbons must be removed to prevent them from condensing under the high pressures in the gas transmission network. Thus, although natural gas producers may not have to adhere to a specific minimum methane pipeline specification, the methane content of the gas likely would fall within a fairly narrow range.

After considering the comments on its SNPR proposal, the Commission concludes that substantiation, certification, and recordkeeping requirements for importers, producers, refiners and distributors of gaseous alternative vehicle fuels, and manufacturers and distributors of electric vehicle fuel dispensing systems, and substantiation and recordkeeping requirements for retail sellers of non-liquid alternative vehicle fuels (including electricity) are necessary to ensure that the information posted on labels on retail fuel dispensers is accurate. The Commission is not persuaded that retail sellers of CNG are in a position to be held exclusively responsible for determining the accuracy of the fuel rating to be disclosed on the CNG dispenser labels. The Commission believes that the rule's requirements are consistent with current industry practice of conforming natural gas to minimum specifications for transport. But, the Commission believes that the comments from Unocal, API and AGA/NGVC could be addressed by further clarifying that the Commission's rule does not apply to producers of natural gas for residential, commercial and industrial purposes. Thus, the rule's fuel rating determination, certification and recordkeeping requirements apply to producers of natural gas only when transferred for use as a vehicle fuel. In this regard, the Commission expects that natural gas producers may wish to take reasonably prudent precautions to ensure that their customers understand the limited use for which the gas is being transferred, if they determine that the rule does not apply to them.

(1) Substantiation. The Commission's rule requires labeling disclosures of the type of non-liquid alternative vehicle fuel (including electricity), and of the minimum molecular percent (a more accurate description than volume of the content of a gas) of the principal component of each gaseous alternative vehicle fuel and of specific, limited information about the output of the electric vehicle fuel dispenser system. In accordance with the Commission's advertising substantiation doctrine, which requires sellers to have a reasonable basis to support material, objective claims,[120] the Commission is requiring that importers, producers, and refiners of non-liquid alternative vehicle fuel (other than electricity) have a reasonable basis, consisting of competent and reliable evidence, that substantiates the minimum molecular percent of the principal component that retailers must disclose on fuel dispenser

[112] *See* proposed rule §§ 309.10, 309.11, 309.12, 59 FR 59666, 59704–59705.

[113] AGA/NGVC, I–18, 3–6; API, I–15, 1–5; Unocal, I–5, 2.

[114] *Id.*

[115] API, I–15, 4; Unocal, I–5, 2.

[116] AGA/NGVC, I–18, 4–6.

[117] Unocal, I–5, 2.

[118] *See* proposed rule § 309.13, 59 FR 59666, 59705.

[119] AGA/NGVC, I–18, Attachment at 3–4.

[120] *See Thompson Medical Co.*, 104 F.T.C. 648, 839 (1984) (Appendix), *aff'd*, 791 F.2d 189 (D.C. Cir. 1986), *cert. denied*, 479 U.S. 1086 (1987).

labels. The rule further states that importers and producers may use private facilities for fuel rating determinations. This would be important to producers who do not have testing equipment of their own.[121] These requirements are consistent with the substantiation requirements of the Fuel Rating Rule,[122] which were mandated by the Petroleum Marketing Practices Act.[123]

For the minimum molecular percent content of hydrogen (the principal component) in hydrogen gas, the Commission proposed requiring that the reasonable basis be tests conducted according to ASTM D 1946–90. For the minimum molecular percent content of methane (the principal component) in CNG, the Commission proposed requiring that the reasonable basis be tests conducted according to ASTM D 1945–91. Three comments addressed the CNG testing issue. One comment supported requiring the use of ASTM D 1945–91.[124] AGA/NGVC opposed requiring the use of a specific test method. Instead, that comment suggested that the Commission afford sellers of CNG the flexibility to demonstrate that they possessed a reasonable basis consisting of competent and reliable evidence for their determination of the minimum methane content of CNG.[125] Commercial Electronics commented that other test methods are being developed to measure CNG fuel quality.[126]

After considering the record, the Commission concludes that it is important that sellers base objective disclosures on uniform measurements when recognized and accepted test methods are available. The aforementioned ASTM documents include test procedures, developed through the ASTM consensus process, to determine the chemical composition of hydrogen and CNG, respectively, including the molecular percent of hydrogen in hydrogen gas and methane in CNG. Because ASTM has issued test procedures to measure the minimum molecular percent of the principal components of hydrogen and CNG, the Commission is requiring use of the ASTM test procedures to substantiate those disclosures.[127]

For the minimum molecular percent content of any other component that importers, producers, or refiners wish to certify, the rule does not specify the test procedure that must be used, but only that they have a reasonable basis, consisting of competent and reliable evidence, to substantiate the claim. The Commission's approach to requiring substantiation without specifying a particular test method for components other than the principal component, allows sellers to rely on existing industry test procedures if they are reasonable and yield accurate results. For example, the California specifications list specific ASTM procedures to be used to determine the molecular percent of various components of CNG and hydrogen, in addition to the methane content of CNG and the hydrogen content of hydrogen gas. Because the Commission has not specified additional components that might be disclosed, it has no basis on the record to specify test procedures that must be used to measure them. The Commission, therefore, will accept, but not require, use of the ASTM test procedures cited in the California specifications as the required reasonable basis for voluntary disclosure of additional components of CNG and hydrogen that are included in those specifications.[128]

The rule also does not require that importers, producers, or refiners meet particular material specifications or standards for the common name they use to describe the non-liquid alternative vehicle fuel (other than electricity) they distribute, but that they have a reasonable basis, consisting of competent and reliable evidence, to substantiate the fuel rating they determine and certify to others.

Although the Commission has decided not to require that non-liquid alternative vehicle fuels conform to any specific material specification, the Commission's requirement that marketers disclose the principal component of each fuel should encourage the industry to develop uniform material specifications or standards for these fuels in consensus organizations to ensure the uniform quality of the fuels in the marketplace. The development of material specifications or standards for non-liquid (gaseous) alternative vehicle fuels should help facilitate acceptance of these fuels.

Similarly, manufacturers of electric vehicle fuel dispenser systems are required to have a reasonable basis, consisting of competent and reliable evidence, to substantiate the information retail sellers must post on labels on the electric vehicle fuel dispensers. For public electric vehicle fuel dispensing systems, the information the Commission requires to be disclosed can be determined using standard measuring devices or procedures. Therefore, accurate measurements made using standard electric industry procedures that are recognized as competent and reliable are sufficient to serve as the required reasonable basis.

Distributors and retail sellers may be able to rely on the fuel rating certifications they receive, as discussed *infra*, so their substantiation burden will be minimal. Distributors and retailers need not make the actual determinations unless they alter the fuel before selling it.[129]

(2) Certification. The Commission is requiring that importers, producers, refiners, and distributors of non-liquid alternative fuels (other than electricity), and that manufacturers and distributors of electric vehicle fuel dispensing systems certify to others to whom they distribute the information that retailers must post on fuel dispensers.[130] Importers, producers, and refiners of non-liquid alternative fuels (other than electricity) are required to certify to distributors their determination of the minimum molecular percent of the fuel's major component, and of any additional component they wish to disclose. Manufacturers of electric vehicle fuel dispensing systems are required to certify to distributors and/or retailers the information retailers are required to disclose on labels on fuel dispensers. Distributors of non-liquid alternative fuels (other than electricity) and of electric vehicle fuel dispensing

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[121] *See* final rule § 309.10 *infra*.

[122] 16 CFR 306.5(b) (1994).

[123] 15 U.S.C. 2822.

[124] API, I–15, 4.

[125] AGA/NGVC, I–18, 7 (affording such flexibility would avoid unnecessary future actions by the Commission to amend its rule each time a new test procedure is developed).

[126] Comm Elec, I–8, 7.

[127] The Fuel Rating Rule did not require that specific ASTM test methods be used to satisfy the Rule's reasonable basis standard for liquid alternative fuels because existing ASTM test methods were undergoing verification review to determine whether they would be appropriate for use in establishing standards for the liquid alternative fuels. Further, the Commission was informed that other test methods were being developed that might serve equally well as part of a liquid alternative fuel standard. On the other hand, the Commission understands that the ASTM test methods it is requiring as a reasonable basis for determining the minimum molecular percentages of the principal components of CNG and hydrogen have been ASTM test methods for many years and have been recognized as competent and reliable procedures. Further, the Commission understands that no other test methods that could be used to make these determinations have been proposed to the California Air Resources Board or are under development by any standards-setting organizations. If additional test methods are developed in the future, the Commission will consider whether to include them among the required test methods.

[128] See further references to California's specifications in section III(B)(3)(d) *supra*.

[129] *See* final rule §§ 309.13(c), 309.15(c) *infra*.

[130] *See* final rule §§ 309.11, 309.13 *infra*.

systems are required to certify to retailers consistent with the certification they received.[131]

Importers, producers, and refiners of non-liquid alternative vehicle fuel (other than electricity) may make the certification in either of two ways:

(a) By including with each transfer a delivery ticket or other paper (such as an invoice, bill of lading, bill of sale, terminal ticket, delivery ticket or any other written proof of transfer). The delivery ticket or other paper must contain at least the importer's, producer's, or refiner's name, the name of the person to whom the non-liquid alternative fuel is transferred, the date of the transfer, the common name of the fuel and the minimum molecular percent of the fuel's major component, and of any additional component the importer, producer or refiner wishes to disclose.

(b) By giving the person to whom the fuel is transferred a letter or written statement, including the date, the importer's, producer's or refiner's name, the name of the person to whom the fuel is transferred, the common name of the fuel, and the minimum molecular percent of the fuel's major component, and of any additional component the importer, producer or refiner wishes to disclose. The letter or written statement is effective until the importer, producer, or refiner transfers non-liquid alternative vehicle fuel with a lower percentage of the major component, or of any other component claimed. At that time, the importer, producer, or refiner will have to certify the new information about the fuel with a new notice.[132]

Distributors of non-liquid alternative vehicle fuel (other than electricity) are required to make the certification in each transfer to anyone who is not a consumer. Distributors may make the required certification in either of two ways:

(a) By using a delivery ticket or other paper with each transfer, as outlined for importers, producers and refiners in item (a), above.

(b) By using a letter of certification, as outlined for importers, producers, and refiners in item (b), above.[133]

Manufacturers of electric vehicle fuel dispensing systems are required to make the certification in each transfer of such systems to anyone who is not a consumer. Manufacturers may do so in either of two ways:

(a) By including a delivery ticket or other paper with each transfer of an EV fuel dispensing system. It may be an invoice, bill of lading, bill of sale, delivery ticket, or any other written proof of transfer. It is required to contain at least the manufacturer's name, the name of the person to whom the EV fuel dispensing system is transferred, the date of the transfer, the model number or other identifier of the EV fuel dispensing system, and the information required to be disclosed on the retail fuel dispenser label.

(b) By placing clearly and conspicuously on the EV fuel dispensing system a permanent legible marking or permanently attached label that discloses the manufacturer's name, the model number or other identifier of the EV fuel dispensing system, and the information required to be disclosed on the retail fuel dispenser label. Such marking or label is required to be located where it can be seen after installation of the EV fuel dispensing system. The marking or label is deemed ''legible,'' in terms of placement, if it is located in close proximity to the manufacturer's identification marking. This marking or label is required to be in addition to, and not as a substitute for, the label required to be posted on the public EV fuel dispenser at the point of retail sale.[134]

Distributors of electric vehicle fuel dispensing systems are required to make the certification in each transfer to anyone who is not a consumer. Distributors may do so in either of two ways:

(a) By using a delivery ticket or other paper with each transfer, as outlined for manufacturers of electric vehicle fuel dispensing systems in item (a) above.

(b) By using the permanent marking or label permanently attached to the system by the manufacturer, as outlined for manufacturers of electric vehicle fuel dispensing systems in item (b) above.[135]

These requirements are consistent with the certification requirements for sellers of liquid alternative fuels under the Fuel Rating Rule.[136]

(3) Recordkeeping. The Commission is requiring that importers, producers, and refiners of non-liquid alternative fuels (other than electricity) maintain records of the tests performed by or for them, or other data, that they rely upon as their required reasonable basis for their certifications.[137] The Commission likewise is requiring that manufacturers of electric vehicle fuel dispensing systems maintain records of the tests or measurements performed by or for them, or of other data or records, that they rely upon as their required reasonable basis for their certifications.[138] The Commission also requires that distributors and retailers of non-liquid alternative fuels (other than electricity) maintain records consisting of the certifications they receive from importers, producers, refiners, or distributors of non-liquid alternative fuels (other than electricity), and that distributors of electric vehicle fuel dispensing systems and retailers of electricity maintain records consisting of the certifications they receive from manufacturers or distributors of the systems.[139] The rule requires that these records be kept for one year. These requirements are consistent with those for sellers of liquid alternative fuels under the Fuel Rating Rule.[140]

c. *Effective date.* Section 406(a) of EPA 92 requires the Commission to issue its final labeling rules within one year of the NPR's publication, but does not specify when the rules shall become effective. In the SNPR, the Commission proposed making the non-liquid alternative fuels labeling requirements effective 90 days after publication of a final rule in the **Federal Register**.[141] In developing its SNPR proposal, the Commission considered how best to balance consumers' needs for comparative information with industry's need for a reasonable period of time to come into compliance.[142] The one comment on this issue supported the proposed effective date.[143] The Commission, therefore, has determined to make the non-liquid alternative fuels labeling requirements effective 90 days after publication of a final rule in the **Federal Register**.[144]

d. *Periodic updating of labels.* In the SNPR, the Commission proposed no

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[131] *See* final rule § 309.13 *infra.* If distributors blend fuels, § 309.13(c) of the rule requires them to substantiate the minimum percentage of the principal component according to the requirements of § 309.10, and certify that information to their non-consumer customers.

[132] *See* final rule § 309.11 *infra.*

[133] See final rule § 309.13 *infra.*

[134] *See* final rule § 309.11 *infra.*

[135] *See* final rule § 309.13 *infra.*

[136] 16 CFR 306.6, 306.8 (1994).

[137] *See* final rule § 309.12 *infra.*

[138] *Id.*

[139] *See* final rule §§ 309.14, 309.16 *infra.*

[140] 16 CFR 306.7, 306.9, 306.11 (1994).

[141] The effective date of the final amendments adding liquid alternative fuels to the Fuel Rating Rule was less than 90 days after publication of the final rules in the **Federal Register**. The final rules were published on August 3, 1993. They became effective on October 25, 1993, as required by EPA 92. 58 FR 41356.

[142] The Commission based the SNPR proposal on an analysis of several comments stating that the proposed 90-day time period gave sufficient time for covered parties to comply with the proposed requirements. One comment contended, however, that at least six months was necessary. 59 FR 59666, 59679.

[143] Mobil, I–2, 6.

[144] *See* 59 FR 59666, 59679. In contrast, the effective date for the AFV labeling requirements is 180 days after publication in the **Federal Register**. *See* discussion in section III(C)(5) *infra.*

specific timetable for future reviews of the final labeling rules, although it recognized that section 406(a) of EPA 92 requires the Commission to update its labeling requirements ''periodically.'' The Commission determined not to specify a timetable after analyzing comments encouraging it to review the rule as consensus specifications are developed for alternative fuels, as new alternative fuels enter the marketplace and as technology develops.[145] The Commission received no comments addressing this aspect of its SNPR proposal.

Based on other comments in this proceeding, and recognizing that it cannot predict when new relevant developments may occur, the Commission has determined not to establish a specific timetable for future reviews of the final rule. As required by section 406(a) of EPA 92, the Commission intends to conduct reviews to update the rule periodically, as needed, to take into consideration relevant developments, such as when DOE designates new non-liquid alternative fuels. The rule, however, will be reviewed at least once every ten years pursuant to the Commission's ongoing regulatory review project.

C. Labeling Requirements for AFVs

Twenty-one of the 24 comments received in response to the SNPR addressed some aspect of the Commission's proposed labeling requirements for AFVs. These comments addressed either the scope of the proposed labeling requirements (i.e., which vehicles would be covered by the labeling requirements) or the proposed rule's disclosures (i.e., what information would be required to be displayed on labels and how that information would be displayed).[146] Those comments, and the Commission's modifications to the proposed rule in response to those comments, are discussed below.

1. Scope of the AFV Labeling Requirement

In its SNPR, the Commission proposed that the scope of its AFV labeling requirements be based upon, or derived from, existing pertinent federal regulations. Eleven comments addressed this aspect of the AFV labeling requirements. Six other comments indicated general support for the Commission's labeling proposal, but did not address this specific issue.[147] The remaining five addressed one or more issues pertaining to the scope of the AFV labeling requirements, as discussed below.

a. *Covered AFVs.* In the SNPR, the Commission considered whether its labeling requirements should apply to all AFVs, as that term is defined in EPA 92, or whether they should apply to only certain vehicles. As defined by that statute, an AFV is either ''a dedicated vehicle or a dual fueled vehicle.'' [148] As further defined, a ''dedicated vehicle'' means an automobile (or other self-propelled vehicle), designed for transporting persons or property on a street or highway, that operates solely on alternative fuel.[149] Similarly, a ''dual fueled vehicle'' is an automobile (or other self-propelled vehicle), designed for transporting persons or property on a street or highway, that is capable of operating on alternative fuel and on gasoline or diesel fuel.[150] As such, the statutory scope of an ''AFV'' is quite wide and includes tour buses, transit buses, heavy-duty commercial trucks, and large motor homes.

After considering the practicality and appropriateness of including all AFVs within the scope of its labeling requirements, the Commission proposed in the SNPR to exclude AFVs with gross vehicle weight ratings (''GVWR'' [151]) over 8,500 lbs. The SNPR included a definition of ''covered vehicles'' (i.e., in substance, AFVs under 8,500 lbs. GVWR), in the proposed rule.[152] The Commission derived that definition from EPA 92's definition of the term ''light duty motor vehicles,'' a term given special significance by that statute.[153] EPA 92's definition of that term references two vehicle classifications used by the Clean Air Act (light duty trucks or light duty vehicles) ''of less than or equal to 8,500 pounds [GVWR].'' [154] The Clean Air Act [155] in turn refers to existing EPA definitions of both vehicle classifications.[156] Thus, the proposed definition of ''covered vehicle'' basically encompassed the same category of vehicle referenced in EPA 92's fleet acquisition requirements.

Three comments specifically addressed this issue. AAMA [157] and EMA supported excluding AFVs over 8,500 lbs. GVWR from the scope of the AFV labeling requirements.[158] However, these comments also suggested that one element of the SNPR's definition of ''covered vehicle'' be modified to exclude vehicles configured ''with special features enabling off-street or

[145] *See* discussion of comments of API, CEC, and TVA in the SNPR, 59 FR 59666, 59679.

[146] Two of the three other comments were limited to encouraging metric disclosures on AFV labels. *See* Mechtly, I–1, Sokol, I–17, discussed *infra* section VI. The third comment was limited to the SNPR's proposal as it related to alternative fuels. Unocal, I–5.

[147] AGA/NGVC, I–18, 2, 3; Boston Edison/EEI, I–14, 4; Comm Elec, I–8, 8; EIA/EEU–ISD, J–4, 1; NAFA, I–10, 1, 2; RFA, I–3, 1–2.

[148] 42 U.S.C. 13211(3) (Supp. IV 1993).

[149] *See* 42 U.S.C. 13211(6) (Supp. IV 1993) (a ''dedicated vehicle'' is either a ''dedicated automobile,'' as defined in 15 U.S.C. 2013(h)(1)(C) (Supp. IV 1993), or a ''motor vehicle,'' as defined in 42 U.S.C. 7550(2), other than an automobile, that operates solely on alternative fuel).

[150] *See* 42 U.S.C. 13211(8) (Supp. IV 1993) (a ''dual fueled vehicle'' is either a ''dual fueled automobile,'' as defined in 15 U.S.C. 2013(h)(1)(D) (Supp. IV 1993), or a ''motor vehicle,'' as defined in 42 U.S.C. 7550(2), other than an automobile, that is capable of operating on alternative fuel and on gasoline or diesel fuel).

[151] EPA defines GVWR as a vehicle's actual weight (including all standard and optional equipment and fuel) plus 300 pounds. *See* 40 CFR 86.082–2 (1993) (defining ''GVWR,'' ''loaded vehicle weight,'' and ''vehicle curb weight'').

[152] *See* proposed rule § 309.1(f) (defining ''covered vehicle''), 59 FR 59666, 59703. The term ''covered vehicle'' was derived from the Energy Policy and Conservation Act's (''EPCA'') use of the term ''covered product.'' *See* 42 U.S.C. 6291(a)(2), 6292(a) (statute's scope defined in terms of enumerated consumer products); 16 CFR 305.2, 305.3 (1994) (same for Commission's Appliance Labeling Rule implementing EPCA).

[153] Three of EPA 92's five ''major'' alternative-fuel provisions impose minimum vehicle-acquisition requirements on designated entities (i.e., the Federal government; alternative fuel providers; and other non-Federal fleets). H. Rep. No. 102–474(I), 102d Cong., 2d Sess. 137, *reprinted in* 1992 U.S.C.C.A.N. 1954, 1960. For alternative fuel providers and other non-Federal fleets, the vehicles covered by those mandates are ''light duty motor vehicles.'' *See* 42 U.S.C. 13251 (Supp. IV 1993) (mandatory acquisition requirement for alternative fuel providers); 42 U.S.C. 13257 (Supp. IV 1993) (contingent acquisition requirement for other non-Federal fleet operators).

The Federal fleet is required to acquire ''light duty [AFVs],'' a term not defined in EPA 92, instead of ''light duty motor vehicles.'' *See* 42 U.S.C. 13212 (Supp. IV 1993) (mandatory acquisition requirement for Federal government). Neither the statute nor its legislative history suggests that those terms have different meanings and the discrepancy may have been inadvertent. In any event, it appears that the intent was to tailor the Federal fleet's acquisition requirement to certain AFVs.

[154] 42 U.S.C. 13211(11) (Supp. IV 1993) (''The term 'light duty motor vehicle' means a light duty truck or light duty vehicle, as such terms are defined under section 216(7) of the Clean Air Act (42 U.S.C. 7550(7)), of less than or equal to 8,500 pounds [GVWR].'').

[155] 42 U.S.C. 7550(7) (the terms ''light duty truck'' and ''light duty vehicle'' ''have the meaning provided in regulations promulgated by the [EPA] Administrator and in effect as of the enactment of the Clean Air Act Amendments of 1990'').

[156] A light duty truck is defined as ''[a]ny motor vehicle rated at 8,500 pounds GVWR or less which as (sic) a vehicle curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less, which is (1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or (2) Designed primarily for transportation of persons and has a capacity of more than 12 persons, or (3) Available with special features enabling off-street or off-highway operation and use.'' 40 CFR 86.082–2 (1993). A light duty vehicle is defined as ''a passenger car or passenger car derivative capable of seating 12 passengers or less.'' *Id.*

[157] Three comments fully supported AAMA's comment. Chrysler, I–13, 1; Ford, I–4, 2; NGVPA, I–19, 1.

[158] AAMA, I–16, cover letter at 1; EMA, I–6, 1–2.

off-highway operation and use.'' [159] It appears that this suggestion may have been based upon their belief that consumers considering such vehicles would not likely make choices and comparisons based upon simple labels. The City of Chicago, however, generally supported including all AFVs within the scope of the AFV labeling requirements without specifically addressing the Commission's proposal.[160]

After considering the record, the Commission has determined to issue its SNPR proposal as to this subject with one modification. As noted previously, the Commission must issue uniform labeling requirements for AFVs only ''to the greatest extent practicable.'' [161] Labeling requirements for all such vehicles might help educate consumers about the general availability of AFVs of all sizes. However, the Commission has concluded that consumers considering vehicles over 8,500 lbs. GVWR would not likely make choices and comparisons based on the cost-benefit information contained in a simple label.[162] The Commission also considered including all AFVs (regardless of weight) and developing different label formats tailored to the apparently different needs of light and heavy-duty AFV consumers. This did not appear to be practical because heavier vehicles are typically custom ordered. While these evaluations may change in the future, for now at least it seems likely that for consumers considering such vehicles, disclosures in a labeling format may not be appropriate, useful, or timely. The Commission also notes that EPA's fuel economy requirements (disclosing fuel economy information in window stickers) do not apply to vehicles over 8,500 lbs. GVWR.[163] As a result, the Commission has determined that, at the present time, AFVs over 8,500 lbs. GVWR will not be included within the scope of its AFV labeling requirements.

For similar reasons, the Commission has also determined that it should modify its definition of ''covered vehicle'' by excluding from its scope ''off-street'' or ''off-highway'' vehicles. Such vehicles would more likely be acquired for specialized commercial uses, instead of general commercial or individual use. The Commission also notes that EPA's fuel economy requirements (disclosing fuel economy information in window stickers) do not apply to such vehicles.[164] As such, the Commission believes that consumers considering such vehicles would not likely make choices and comparisons based on the cost-benefit information contained in a simple label. Accordingly, such vehicles are excluded from the AFV labeling requirements.

b. *AFV Manufacturers and Conversion Companies.* Another facet of the proposal regarding covered AFVs involved conversions (i.e., existing conventional-fuel vehicles reconfigured to permit operation on alternative fuel) and what entity would be responsible for compliance. In developing the proposed rule, the Commission took particular note of recently-issued EPA regulations addressing this subject. Those regulations implemented a provision of the 1990 Clean Air Act Amendments (''CAAA'') deeming that ''person[s] who convert conventional vehicles to clean-fuel vehicles'' are ''manufacturers,'' and thus responsible for complying with some or all of EPA's certification, production, line testing, in-use testing, warranty, and recall requirements.[165] In the preamble announcing those regulations, EPA noted that two entities could be considered the ''person who converts'': the person who *installs* the conversion kit (i.e., the hardware converting the vehicle to alternative fuel), or the person who *manufactures* the conversion kit.[166] After considering the advantages and disadvantages of assigning liability to either entity, EPA concluded that assigning liability strictly to either entity was not appropriate. Instead, it determined it should assign liability based on which party was in the best position to be familiar with pertinent vehicle-performance characteristics.

Interpreting its own regulations, EPA determined that the entity best suited to comply with these requirements was the entity (kit installer, manufacturer, or other) who had applied for and received a certificate of conformity that the vehicle meets appropriate EPA emission standards.[167] Based on public comment received during that proceeding, EPA anticipated that in most cases the kit manufacturer would be the certifying party because this entity would be in the best position to perform the required certification testing.[168] Accordingly, EPA further expected that its regulations would encourage certifiers to develop oversight programs and enter into indemnification agreements with installers to insure that installations were performed properly.[169]

In considering the issue of AFV conversions, the Commission noted that section 406 does not address the issue of AFV conversions. The Commission's intent in considering this topic was to address what the Commission understood was a significant segment of the AFV industry. DOE has noted that: ''Because of the limited availability and selection of [OEM] vehicles, conversions are providing a transition to the time when automakers produce more [AFVs] for public sale.'' [170]

The demand for AFVs is being driven, at least in part, by the acquisition requirements for centrally fueled fleets contained in the 1990 CAAA.[171] Those requirements ''may be met through the conversion of existing or new gasoline or diesel-powered vehicles to clean-fuel vehicles.'' [172] Parties affected by those mandates, as well as others interested in achieving the clean-air benefits of driving AFVs, may have an incentive to

[159] *See* proposed rule § 309.1(f)(2)(iii), 59 FR 59666, 59703; AAMA, I–16, cover letter at 1; EMA, I–6, 2.

[160] Chicago, J–2, 2. AAMA and Mobil also made the general observation that definitions in the AFV labeling requirements should be consistent with other regulatory plans. AAMA, I–16, 7 (''The definitions used in the regulation must be consistent with those used by other regulatory agencies.''); Mobil, I–2, 8 (''As long as the definition in this rule is coordinated with DOE, then this rulemaking will be consistent with forthcoming EPAct rules from DOE.''). AAMA further commented that ''common definitions would also be useful.'' AAMA, I–16, 7. It did not specify, however, how the FTC should determine where ''common definitions,'' as opposed to definitions used by other agencies, would be more appropriate.

[161] 42 U.S.C. 13232(a) (Supp. IV 1993).

[162] EMA, G–21, 2, 3–4, 7, (Tr.), 123. EMA cited examples where the considerations relevant to ordering a heavy-duty AFV were summarized in an OEM's 25-page sales brochure and a 400-page truck data book. EMA (Supp.), G–21, 2–3. *See also* AAMA, G–7, 3–4, (Tr.), 124 (purchasing decision ''will already have been made long before [purchaser] walks into the showroom and sees the label''); Flxible (Supp.), G–12, 1–3 (window stickers should be for vehicles purchased for personal use and from dealer lots, i.e., under 8,500 lbs. GVWR), (Tr.), 134 (rule should be limited to passenger-type vehicles). Chrysler and Ford supported AAMA's position that these vehicles should be excluded from the scope of the Commission's AFV labeling requirements. Chrysler, G–13, 1; Ford, G–14, 1.

[163] EPA (Tr.), 122; 40 CFR 600.002–85(4)(iii) (1993).

[164] *See* 40 CFR 600.002–85(4) (defining ''automobile'').

[165] 42 U.S.C. 7587(c); Emission Standards for Clean-Fuel Vehicles and Engines, Requirements for Clean-Fuel Vehicle Conversions, and California Pilot Test Program (''Fleet Standards Rule''), 59 FR 50042, 50061–50062, Sept. 30, 1994.

[166] Fleet Standards Rule, 59 FR 50042, 50061.

[167] Fleet Standards Rule, 59 FR 50042, 50062.

[168] Fleet Standards Rule, 59 FR 50042, 50061–50062.

[169] Fleet Standards Rule, 59 FR 50042, 50061–50062, 50064. Given the nature of their liability, EPA noted that ''[k]it manufacturers would be wholly within their rights to require such indemnification agreements before allowing installers to install their kit.'' Fleet Standards Rule, 59 FR 50042, 50062.

[170] B–3, inside front cover.

[171] The CAAA's acquisition requirements are in addition to similar requirements, described *infra* section III(C)(1)(c), imposed by EPA 92.

[172] 42 U.S.C. 7587(a).

convert existing vehicles to alternative fuel. The Commission therefore believed that it should address this issue in this proceeding to the greatest extent practicable, and thereby help consumers compare different alternative fuels and conversion systems.

Accordingly, in the SNPR, the Commission proposed that the entity responsible for complying with the labeling requirements for new covered vehicles [173] would be the vehicle's ''manufacturer.'' The proposed rule defined ''manufacturer'' as ''the person who obtains a certificate of conformity that the vehicle complies with the standards and requirements of [EPA's emission and clean-fuel vehicle regulations].'' [174] Under the proposed rule, manufacturers of new covered vehicles would be required to affix (or cause to be affixed) new vehicle labels on each such vehicle prior to its being offered for acquisition by consumers.[175] If, however, an ''aftermarket conversion system'' (i.e., a conversion kit) [176] is installed on a vehicle by a person other than the manufacturer prior to being acquired by a consumer, the manufacturer would be responsible for providing that person with the objective information regarding that vehicle required by the proposed rule.[177]

The Commission's intent in formulating these definitions was to distinguish between two different categories of conversions based on whether a vehicle was converted to alternative fuel before or after it is delivered to the first consumer. Conversions performed *before* a vehicle is delivered to a first consumer bear similarities to OEM AFVs because in both circumstances the vehicles are configured to alternative fuel before delivery to the first consumer. In the SNPR, the Commission tentatively determined that consumers considering these converted AFVs would thus have equal need for comparative information as consumers considering other ''new'' vehicles.[178] It therefore proposed to include such conversions within the scope of its AFV labeling requirements.

As to the second category, the Commission proposed that companies performing conversions *after* the vehicle is delivered to a consumer (so called ''aftermarket conversions'') should be excluded from the AFV labeling requirements because those consumers would have already been educated about the costs and benefits of alternative fuels.[179] The Commission based that proposal on its determination that consumers considering conversion of existing vehicles would not benefit from a ''labeling'' requirement, and that the circumstances surrounding such conversions may make such a requirement impractical or unnecessary.[180] For example, the Commission understood that some consumers convert their vehicles themselves without utilizing the services of a conversion installation company. Further, companies performing conversions, at a consumer's request, would have nothing to label until the consumer had already decided to do a conversion, and labeling the vehicle post-conversion would not be helpful,[181] as consumers presumably already have evaluated alternative fuels in deciding to have their vehicle converted. Finally, requiring conversion companies to disclose objective information as to comparative factors will likely be problematic because such information can vary with the vehicle's condition.[182]

In any event, the Commission noted that DOE has addressed conversions of existing vehicles in its consumer information brochure.[183] Some of the information contained in that brochure is general (e.g., electric vehicle conversions ''are available in larger metropolitan areas. Contact OEM dealer for qualified converter and warranty information''),[184] while some is more specific and objective. For example, the brochure notes that converting an existing conventional-fueled vehicle to CNG ''costs about $2,700 to $5,000 per vehicle.'' [185] Given the apparent impracticalities surrounding a requirement for aftermarket alternative-fuel conversions, and the availability of pertinent information in DOE's brochure, the Commission proposed excluding from its AFV labeling requirements situations where conventional fueled vehicles are converted to alternative fuel after being acquired by consumers.[186]

Four comments addressed this issue. AAMA and Mobil generally observed that definitions in the AFV labeling requirements should be consistent with other regulatory plans.[187] Regarding the substance of the Commission's proposal, Electro Auto generally supported exempting aftermarket conversions while the City of Chicago opposed such an exemption because it believed that future buyers of AFVs should have access to the same information as buyers of original equipment.[188] Comments previously filed agreed that all vehicles designed and assembled by OEMS to operate on alternative fuel should be included within the scope of the Commission's AFV labeling requirements.[189]

After considering the record, the Commission has determined to adopt the SNPR proposal regarding which conversions are covered without modification. Because harmonizing regulatory approaches, when practicable, is appropriate and desirable, the Commission has based its approach to determining which entities are responsible for complying with its AFV labeling requirements on EPA's regulations addressing the same issue. The Commission has determined to designate the certifier as being responsible for compliance with these requirements because that entity will be in the best position to know the vehicle's performance attributes. The Commission also expects that certifiers will take steps to insure compliance with this revised labeling proposal by installers, such as developing oversight programs and entering into

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[173] AFV labeling requirements for used covered vehicles are discussed *infra* section III(C)(1)(d).

[174] Proposed rule § 309.1(r), 59 FR 59666, 59704.

[175] Proposed rule § 309.20(a)(1), 59 FR 59666, 59707.

[176] *See* proposed rule § 309.1(b) (defining ''aftermarket conversion system''), 59 FR 59666, 59707. This definition was derived from a recently-issued EPA definition of the same term. *See* 59 FR 48472, 48490, to be codified at 40 CFR 85.502(c).

[177] *See* proposed rule § 309.20(a)(2), 59 FR 59666, 59707. Specific data proposed to be disclosed on labels for new covered AFVs is discussed *infra* section III(C)(2)(a).

[178] See AGA/NGVC (Supp.), G–6 (''We agree with the FTC and others that vehicles that are converted prior to being delivered to the first time buyer should be labeled in the same fashion as other 'new' vehicles.''); ETC, G–24, 4 (''All vehicles that are considered 'new' vehicles, regardless of whether they are sold by an original equipment manufacturer or a converter or upfitter, should be subject to the labeling requirement.''). Commenters responding to the Commission's ANPR were in similar agreement. *See* 59 FR 24014, 24016 nn. 53, 54 and accompanying text.

[179] AGA/NGVC (Supp.), G–6, 3–4, (Tr.), 231–232; ETC, G–24, 4.

[180] DOE, E–10, 3–4 (''It would be more difficult, and perhaps unnecessary, for in-use vehicles (already owned and operated) that are converted to use alternative fuels during their vehicle life to meet the AFV labeling requirements.'').

[181] Further, as noted, requiring disclosure other than in a labeling format may be beyond the scope of the Commission's authority under EPA 92. *See supra* section III(A).

[182] EPA (Tr.), 220.

[183] EPA 92 requires that DOE's information package ''include information with respect to the conversion of conventional motor vehicles to [AFVs].'' 42 U.S.C. 13231 (Supp. IV 1993).

[184] B–3, 16.

[185] B–3, 23.

[186] *See* proposed rule § 309.20(a)(2) (limiting labeling requirements for new covered vehicles to conversion systems installed ''prior to such vehicle's being acquired by a consumer''), 59 FR 59666, 59707.

[187] AAMA, I–16, 7; Mobil, I–2, 8.

[188] Chicago, J–2, 1, 2, 3; Electro Auto, I–7, 1.

[189] *See, e.g.*, Boston Edison (Supp.), G–26, 13; ETC, G–24, 4.

indemnification agreements with installers to insure that accurate labels are posted as required.

c. Acquisitions by consumers. In the SNPR, the Commission proposed that its labeling requirements apply to covered vehicles offered for ''acquisition'' to consumers.[190] The intent of this proposal was to include purchases and long-term leasing arrangements within the scope of the AFV labeling requirements. The Commission also proposed to define the term ''consumer'' to include individuals, corporations, partnerships, associations, States, municipalities, political subdivisions of States, and agencies, departments, or instrumentalities of the United States.[191] Responding to this aspect of the Commission's proposal, AAMA and Mobil generally observed that definitions in the AFV labeling requirements should be consistent with other regulatory plans.[192]

After considering the record, the Commission has determined to issue its SNPR proposal as to this subject without modification. As to the definition of ''consumer,'' the proposed definition of this term was derived from section 302(e) of the 1990 Clean Air Act Amendments [193] and EPA's regulation implementing that section, 40 CFR § 88.302–94 (1993). The Commission believes that this definition properly includes within its scope all affected interests.

As to leasing arrangements, because Congressional mandates will require consumers to ''acquire'' AFVs,[194] the Commission has determined that its AFV labeling requirements should include such arrangements to the greatest extent practicable to further EPA 92's legislative purpose. In determining what is practicable, the Commission believes that consumers entering into leasing arrangements may have different information needs depending upon the length of the arrangement. For example, consumers entering into long-term leasing arrangements often do so for commercial purposes, and make leasing choices based on evaluating factors pertinent to a commercial acquisition. These persons likely would need the same vehicle information as purchasers and should be covered by the rule. Consumers entering into short-term arrangements (e.g., weekend rentals to the general public for non-commercial purposes) may or may not have similar or equal need for pertinent information, but it seems unlikely that consumers entering into short-term leasing arrangements would make decisions based upon information disclosed in a label. In any event, they may not view the vehicle until after it has been leased. As a result, the labels would not help consumers make choices and comparisons. Accordingly, the Commission has determined that including short-term leasing arrangements in the final rule is not necessary.

The final rule defines an acquisition as including either of the following: (1) acquiring the beneficial title to a covered vehicle; or (2) acquiring a covered vehicle for transportation purposes pursuant to a contract or similar arrangement for a period of 120 days or more.[195] This definition was derived from a recent EPA regulation implementing aspects of the 1990 Clean Air Act Amendments,[196] which used the 120 day period as the dividing line between short and long-term leases. In the preamble announcing that regulation, EPA determined that the 120 day period is slightly longer than a calendar season and that leases of less than that period were therefore short-term and temporary.[197] The Commission finds that the 120 day period reflects a reasonable demarcation between short- and long-term rentals, and therefore has adopted EPA's determination.

d. Used AFVs. In the SNPR, the Commission tentatively determined that both new and used AFVs should be included within the scope of its labeling requirements, but that they should be subject to different requirements. The proposed rule defined the terms ''new covered vehicle'' and ''used covered vehicle'' and established labeling requirements as to each classification.[198] Under the proposed rule, a new covered vehicle was defined as a covered vehicle which has not yet been acquired by a consumer,[199] while a used covered vehicle was defined (in substance) as a covered vehicle which previously has been acquired by a consumer.[200] The proposed rule also defined the terms ''new vehicle dealer'' [201] and ''used vehicle dealer.'' [202]

Because requiring the disclosure of comparative information on used AFVs was deemed problematic,[203] the proposed rule established two labeling formats (i.e., new vehicle labels [204] and used vehicle labels [205]) disclosing different types of information for new and used covered AFVs.[206] For example, because some cost-benefit information is included on temporary window stickers (e.g., EPA's fuel economy rating) or in vehicle owner's manuals, a used AFV dealer may not always possess such information. In any event, some comparative information (e.g., EPA's fuel economy rating) could vary significantly with the vehicle's condition.[207] Requiring disclosure of information based on the vehicle's condition when new could therefore create a risk of misleading consumers.[208] To address one problem inherent in such a disclosure (i.e., the unavailability of pertinent information), the Commission has considered requiring that disclosures be displayed on permanent vehicle labeling.[209] However, this option would not surmount the more basic problem that objective information may no longer accurately reflect the vehicle's present condition

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[190] *See* proposed rule §§ 309.20(a)(1) (new covered vehicles), 309.21(a) (used covered vehicles), 59 FR 59666, 59707.

[191] *See* proposed rule § 309.1(d) (defining ''consumer''), 59 FR 59666, 59703.

[192] AAMA, I–16, 7; Mobil, I–2, 8.

[193] 42 U.S.C. 7602(e) (defining ''person'').

[194] For example, EPA 92 requires that, ''The Federal Government shall acquire at least 5,000 light duty [AFVs] in fiscal year 1993.'' 42 U.S.C. 13212(a)(1)(A) (Supp. IV 1993).

[195] *See* proposed rule § 309.1(a) (defining ''acquisition''), 59 FR 59666, 59703.

[196] Clean Fuel Fleet Program; Definitions and General Provisions, 58 FR 64679, 64689–64690, Dec. 9, 1993 (defining the phrase ''owned or operated, leased or otherwise controlled by such person'' as used in section 241(5) of the 1990 Clean Air Act Amendments, 42 U.S.C. 7581(5)).

[197] 58 FR 64679, 64689, 64690 (excluding leases under 120 days from Clean Fuel Fleet Program).

[198] *See* proposed rule §§ 309.20 (''Labeling requirements for new covered vehicles''), 309.21 (''Labeling requirements for used covered vehicles''), 59 FR 59666, 59707.

[199] *See* proposed rule § 309.1(t) (defining ''new covered vehicle''), 59 FR 59666, 59704.

[200] *See* proposed rule § 309.1(dd) (defining ''used covered vehicle''), 59 FR 59666, 59704. This definition was derived from the Commission's definition of the term ''used vehicle'' in its Used Car Rule, 16 CFR 455.1(d)(2) (1994).

[201] *See* proposed rule § 309.1(u), 59 FR 59666, 59704. This definition was derived from EPA's definition of the term ''dealer,'' the entity responsible for maintaining fuel economy labels on new automobiles. *See* 40 CFR 600.002–93(a)(18) (1993) (defining ''dealer''). Under EPA's regulations, consumers selling used automobiles are not required to post or maintain fuel economy labels. In this final rule, the Commission similarly intends that individual consumers not be required to comply with the AFV labeling requirements.

[202] *See* proposed rule § 309.1(ee), 59 FR 59666, 59704. This definition was derived from the Commission's definition of ''dealer'' in its Used Car Rule, 16 CFR 455.1(d)(3) (1994).

[203] ETC, G–24, 4; RFA (Tr.), 217.

[204] *See* proposed rule § 309.1(v) (defining ''new vehicle labels''), 59 FR 59666, 59704.

[205] *See* proposed rule § 309.1(ff) (defining ''used vehicle labels''), 59 FR 59666, 59704.

[206] *See* proposed rule §§ 309.20(e) (new covered vehicles) and 309.21(e) (used covered vehicles), 59 FR 59666, 59707.

[207] EPA (Tr.), 220.

[208] *Id.*

[209] Chicago, J–2, 2 (permanent labeling on all AFVs would help state and local governments enforce regulations pertaining to preferential parking and other transportation control measures).

(and thus would not form a valid basis upon which to make reasonable choices and comparisons).[210]

Three comments addressed this issue. AAMA supported including used vehicles within the scope of the AFV labeling requirements.[211] Electro Auto stated that they should be excluded.[212] Mobil stated that definitions in the AFV labeling requirements should be consistent with other regulatory plans.[213]

After considering the record, the Commission determined to issue its SNPR proposal as to this subject without modification. The Commission notes that EPA 92's definition of AFV makes no distinction between new and used vehicles.[214] In addition, the record indicated that consumers would likely have the same need for information, and would consider the same factors, whether they were contemplating a new or used AFV acquisition.[215] At the Workshop, two participants also stated that used AFVs should be included in this proceeding at the present time because used AFVs are (or will soon be) offered for sale to consumers.[216] Thus, the Commission has concluded that including such vehicles within the scope of its AFV labeling requirements is appropriate. As described more fully below, labeling for used covered AFVs does not require, however, disclosure of objective performance data.

[210] While consumers may expect that used vehicles will have different performance attributes than new cars, if the Commission required disclosure of specific data on standard labels (based on the vehicle's condition when new), it might create the impression with some consumers that these disclosures may still be valid.

[211] AAMA, I–16, 7. That comment, however, proposed a different format for used vehicle labels.

[212] Electro Auto, I–7, 1. Electro Auto's objection may have been based on a misapprehension that labels for used AFVs would require disclosure of performance attributes specific to that vehicle. The SNPR did not propose such disclosures.

[213] Mobil, I–2, 8 (''As long as the definition in this rule is coordinated with DOE, then this rulemaking will be consistent with forthcoming EPAct rules from DOE.'').

[214] *See* 42 U.S.C. 13211(3) (Supp. IV 1993) (defining ''AFV'').

[215] AMI (Tr.), 136, 218; Boston Edison, G–26, 10; ETC, G–24, 4; NAFA, G–20, 5, (Tr.), 222; PCC, G–22, 2; RFA, G–5, 5, (Tr.), 217.

[216] *See* AMI (Tr.), 218 (''[T]his is a real problem now. There are nearly 10,000 [flexible] fuel vehicles in California alone, and * * * several hundred are being offered for sale now to private consumers.''). *See also* NAFA (Tr.), 222:

I think one of the things you have to be concerned about looking down the road with alternative fuels is that if there is not a resale market for these vehicles, the program will wither and die * * * So we don't have a procedure to provide information to that second purchaser. And they have questions about alternative fuels. And they don't know how to go about getting a brochure like this * * * If you don't create the resale market, then the first market doesn't really develop.

2. Disclosures on AFV Labeling

As discussed below, 21 of the 24 commenters addressed the substance of the Commission's proposed AFV labeling requirements (i.e., the information to be disclosed on AFV labels).[217] Pursuant to EPA 92's mandate, the Commission developed this aspect of the final rule based on two sets of considerations. First, the Commission determined the type of information consumers would find most appropriate, useful, and timely in making AFV choices and comparisons. For example, the Commission stated in the SNPR that consumers would require disclosure of more comparative information when considering an AFV purchase than when refueling.[218] As a result, the Commission proposed that AFV labels disclose more comprehensive cost-benefit information to consumers than labels for alternative fuels. The Commission also stated that because few consumers have extensive experience with AFVs, its labeling proposal should be designed to be useful to a general consumer audience.[219] Finally, the Commission concluded that, because DOE was required to prepare and distribute an information package for consumers, there was less need to attempt to present complex information in the constrained format of an AFV label.

After determining what would likely be appropriate, useful, and timely to consumers, the Commission analyzed the problems associated with developing and publishing such cost-benefit information. For example, the Commission considered the extent to which balanced, accurate information for pertinent comparative factors could be conveyed on the ''simple'' label envisioned by Congress. It also considered whether appropriate technical standards existed to compare some factors, and whether providing the same information required on labels by other government agencies (in different formats) could confuse consumers.

After evaluating those issues, the Commission proposed in the SNPR an AFV label disclosing a combination of information in a three-part format,[220] concluding this would be most useful to consumers making choices and comparisons. The first part would disclose objective information pertaining to each particular AFV, while the second and third parts would disclose information pertaining to AFVs in general. This final rule is the result of the Commission's analysis of all pertinent considerations, the rulemaking record and recent developments. As described in more detail below, the Commission continues to find that a combination of objective and descriptive information will best meet consumers' needs for comparative cost-benefit information. The Commission also concludes that this format will best address the problems associated with developing and publishing such information.

a. *Specific data disclosures.* In the SNPR the Commission proposed that labels for new covered AFVs disclose two types of objective information particular to each AFV: cruising range and EPA certification level.[221] Seven comments addressed the appropriateness of including objective information to consumers as to those factors. Boston Edison/EEI and DOE supported disclosures as to both factors.[222] API stated that a disclosure for cruising range would be a useful measure for consumer comparisons.[223] Mobil appeared to support requiring disclosure of cruising range, but stated that EPA certification levels were generally not relevant to EPA 92.[224] Chrysler supported requiring disclosure of EPA certification levels, but appeared to oppose disclosure of vehicle cruising range.[225] Ford stated that ''most of the information meeting [EPA 92's mandate] is already included on existing motor vehicle labels.'' [226] AAMA stated that it ''support[ed] the intent of the FTC proposal'' and that ''the specific information proposed is appropriate with respect to costs and benefits, so as to reasonably enable the consumer to make choices and comparisons.'' [227]

[217] Unocal, I–5, addressed the proposal for labeling of alternative fuels. Two other comments (Mechtly, I–1, and Sokol, I–17) addressed metric issues. *See* section VI *infra.*

[218] 59 FR 59666, 59684. All nine commenters addressing that issue supported the Commission's assessment. AAMA (Tr.), 37–38; AMI, G–3, 1; Boston Edison (Tr.), 84; CEC, H–8, 1; ETC (Tr.), 42; NAFA (Tr.), 53; NPGA (Tr.), 50, 51; RFA, G–5, 4; Sun, G–1, 2.

[219] Chicago, J–2, 1 (AFV labeling requirement should target all consumers).

[220] 59 FR 24014, 24019–24020.

[221] Labels for used covered AFVs would not disclose objective information particular to each vehicle. See 59 FR 59666, 59688 n.312, 59690 n.358.

[222] Boston Edison/EEI, I–14, 4, 5–6 (both are useful to consumers); DOE, J–1, 2.

[223] API, I–15, 2. API's comment did not address the Commission's proposal to require disclosure of EPA certification level.

[224] Mobil, I–2, cover letter at 3, 9–11.

[225] Chrysler, I–13, 1.

[226] Ford, I–4, 1.

[227] AAMA, I–16, 1. AAMA did not, however, support the ''manner by which this information is [displayed].'' *Id.* For used covered vehicles, AAMA stated that labels should ''contain only the information necessary to indicate that the vehicle operates on alternative fuels and to list the fuels that can be used in the vehicle.'' AAMA, I–16, 1.

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The Commission's SNPR proposal as to both disclosures, and the comments addressing those issues, are described in more detail below.

(1) Cruising range. In the SNPR, the Commission proposed that cruising range should be disclosed on labels for new covered AFVs.[228] Under the Commission's revised proposal, cruising range would be displayed on AFV labels in two formats. The first labeling format would be for dedicated covered AFVs (i.e., covered AFVs designed to operate solely on alternative fuel).[229] Labels for these vehicles would disclose the manufacturer's ''estimated cruising range'' for that vehicle (i.e., the manufacturer's reasonable estimate of the number of miles a covered vehicle will travel between refueling or recharging), expressed as a lower estimate and an upper estimate.[230]

The second labeling format would be for dual-fueled covered AFVs (i.e., vehicles capable of being powered both by an alternative fuel and a conventional fuel).[231] Labels for these vehicles would disclose two sets of values: the manufacturer's reasonable estimate of (a) the minimum and maximum number of miles the vehicle will travel between refuelings or rechargings when operated exclusively on alternative fuel, and (b) the minimum and maximum number of miles the vehicle will travel between refuelings or rechargings when operated exclusively on conventional fuel.[232] Because the disclosure would relate solely to the manufacturer's estimated (and not actual) cruising range, both label formats would include a statement advising consumers that their actual cruising range will vary with options, driving conditions, driving habits and the AFV's condition.[233]

Cruising range values would be expressed in whole numbers and calculated in one of three ways. For vehicles required to comply with EPA's fuel economy labeling provisions,[234] cruising range values would be calculated by reference to the vehicle's estimated fuel economy rating.[235] For example, the lower range value would be determined by multiplying the vehicle's estimated city fuel economy by its fuel tank or battery capacity, then rounding to the next lower integer value.[236] Conversely, the upper range value would be determined by multiplying the vehicle's estimated highway fuel economy by its fuel tank capacity, then rounding to the next higher integer value.[237]

As noted previously, EPA is required to include AFVs powered by all alternative fuels within its fuel-economy labeling program, but has not yet announced a timetable for doing so.[238] During the transition to that next phase, the Commission therefore proposed a different approach for vehicles not yet required to comply with EPA's fuel-economy labeling provisions. For EVs, the Commission noted that the Society of Automotive Engineers (''SAE''), a consensus standard-setting organization, has issued a ''Recommended Practice'' establishing uniform procedures to calculate cruising range for EVs (''SAE J1634'').[239] The Commission believed that reliance on uniform standards would facilitate comparability.[240] Accordingly, the proposed rule requires that cruising range values for EV's be calculated in accordance with that standard.[241]

For other vehicles not yet required to be labeled with EPA's fuel economy stickers, the Commission knew of no comparable consensus procedure that could yield cruising range values in the proposed ''minimum-maximum'' format. As a result, the Commission did not propose that manufacturers use a specific standard to determine cruising range. In similar situations (i.e., where the Commission has required the disclosure of specific information, but no consensus standards exist to measure such information), the Commission has required that manufacturers have a ''reasonable basis'' for such disclosures.[242] Accordingly, for those vehicles, the Commission proposed that manufacturers be required to possess a reasonable basis, consisting of competent and reliable evidence, of the minimum and maximum number of miles the vehicle will travel between refuelings or rechargings.[243]

The SNPR also stated that during this transition (i.e., while EPA is developing fuel-economy labeling requirements), the Commission would consider whether any new consensus test methods for determining cruising range constitute a reasonable basis.[244] The Commission expected that industry compliance with this AFV labeling rule, in conjunction with the need to avoid uncertainty about whether particular test methods or calculations constitute a reasonable basis, will encourage development of standardized test methods and specifications. This, in turn, could facilitate widespread acceptance of AFVs.

Fourteen comments addressed requiring disclosure of cruising range as proposed in the SNPR. Five of the fourteen comments supported the Commission's proposal because of its usefulness to consumers in making

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As noted previously, three comments fully supported AAMA's comment. Chrysler, I–13, 1; Ford, I–4, 2; NGVPA, I–19, 1.

[228] The Commission did not propose requiring disclosure of this information on labels for used covered AFVs because that information could vary significantly with a vehicle's condition. Requiring disclosure of cruising range information on used vehicles could therefore mislead consumers.

[229] *See* proposed rule § 309.1(g) (defining ''dedicated''), 59 FR 59666, 59703.

[230] *See* proposed rules §§ 309.1(o) (defining ''estimated cruising range''), 309.20(e)(2)(i) (requiring disclosure of estimated cruising range for dedicated vehicles), 59 FR 59666, 59704, 59707.

[231] *See* proposed rule § 309.1(i) (defining ''dual fueled''), 59 FR 59666, 59704.

[232] *See* proposed rule § 309.20(e)(2)(ii) (requiring disclosure of estimated cruising range for dual-fueled vehicles), 59 FR 59666, 59707.

[233] EPA's fuel economy labels contain a similar statement. *See* 40 CFR 600.307–86(a)(3)(ii)(A) (1993) (''Actual mileage will vary with options, driving conditions, driving habits, and [vehicle's/truck's] condition.''). *See* SNPR Figures 4 and 5, 59 FR 59666, 59710–59711.

[234] *See* 40 CFR part 600 (1993) (''Fuel economy of motor vehicles'').

[235] Numerous commenters suggested that cruising range values could be so calculated. *See, e.g.,* AAMA (Supp.), G–7, 3 (''Combining MPG with tank capacity can give the customer a reasonable estimation of driving range.''); AMI (Tr.), 141; CAS (Supp.), G–17, 1–2; EPA (Tr.), 144; RFA (Tr.), 148.

[236] *See* proposed rule § 309.22(a)(1)(i), 59 FR 59666, 59708.

[237] *See* proposed rule § 309.22(a)(1)(ii), 59 FR 59666, 59708.

[238] 59 FR 39638, 39639 (announcing fuel-economy test labeling requirements for methanol and CNG vehicles). One comment suggested that the Commission encourage EPA to develop further fuel economy regulations. ETC, I–9, 1. The Commission does not believe that is necessary because EPA is under a legal obligation to issue such regulations.

[239] SAE's ''Electric Vehicle Energy Consumption and Range Test Procedure,'' J1634, was issued in May 1993. B–33. This procedure is based in part on EPA's pertinent test procedures. B–33, 1, 9–10. Boston Edison stated that fuel economy ''can be [calculated] in a manner that is procedurally identical to gasoline vehicles'' by relying on SAE J1634. Boston Edison (Supp.), G–26, 5.

[240] 59 FR 59666, 59688.

[241] *See* proposed rules §§ 309.22(a)(2) (for dedicated vehicles), 309.22(b)(2) (for dual-fueled vehicles), 59 FR 59666, 59708.

[242] *See, e.g.,* Fuel Rating Rule, 16 CFR 306.5(b) (1994) (''To determine automotive fuel ratings for alternative liquid automotive fuels, you must possess a reasonable basis, consisting of competent and reliable evidence, for the percentage by volume of the principal component of the [fuel] that you must disclose.''); Care Labeling Rule, 16 CFR 423.6(c)(1)–(6) (1994) (''reasonable basis'' based on ''reliable evidence''); R-value Rule, 16 CFR 460.19(a) (1994) (''If you say or imply in your ads, labels, or other promotional materials that insulation can cut fuel bills or fuel use, you must have a reasonable basis for the claim.'').

[243] *See* proposed rules §§ 309.22(a)(3) (for dedicated vehicles), 309.22(b)(3) (for dual-fueled vehicles), 59 FR 59666, 50708.

[244] The Commission encourages DOE, as part of its ''technical assistance,'' to direct the development of such transition specifications. *See* 42 U.S.C. 13232(b) (Supp. IV 1993) (DOE ''shall provide technical assistance'' to the Commission and coordinate that assistance with its development of a consumer information brochure).

choices and comparisons.[245] For example, survey data cited by Boston Edison/EEI ''indicated that the distance that an electric car can travel is the highest ranking concern of consumers.'' [246] Similarly, CAS supported requiring disclosure of this ''extremely useful'' information and NAFA stated that fleet managers ''have identified cruising range as one of the most important factors when making a decision to purchase AFVs.'' [247]

Three of the fourteen comments made suggestions directed at specific issues without specifically supporting or opposing the Commission's SNPR proposal.[248] For example, API noted that cruising range was ''a useful measure for consumer comparison'' but suggested that the information be expressed in terms of fuel tank capacity ''and miles per gallon or gallon equivalent.'' [249] The final two of those three comments were directed at the Commission's proposal regarding how cruising range would be calculated for EVs. Toyota supported the Commission's proposal to base calculation of cruising range values for EVs on SAE J1634, but stated that procedure did not yield an upper and lower limit of the vehicle's range.[250] CARB stated that it ''has a number of concerns'' with SAE J1634, including that it may allow for inflated range estimates and that its treatment of EVs equipped with air conditioning was not sufficiently precise.[251]

Comments from domestic automakers supported the Commission's determination that cruising range would be ''useful'' [252] and ''important'' [253] information for consumers. However, those commenters strongly opposed requiring a disclosure as to that factor because cruising range ''cannot, at this time, be provided in a manner which would be useful to the consumer.'' [254] The automakers based their opposition on their belief that sufficient ''standards and adjustment factors'' had not yet been developed to account for differences in AFV technology.[255]

For example, according to AAMA, without standard fuel specifications,[256] EPA test procedures, and a definition of fuel tank capacity for all AFVs, a range of estimates would result based on varying assumptions which would in turn generate inconsistent and unhelpful estimates of vehicle range.[257] The expected use of AFVs by fleet operators, with different in-use driving cycles and vehicle maintenance practices than those used in EPA's fuel economy determinations, ''can [also] significantly affect range.'' [258] And ''inconsistencies and confusion'' exist between range estimates for flexible fuel vehicles (i.e., AFVs capable of operating on an alternative and conventional fuel in a single fuel tank) and bi-fuel vehicles (i.e., AFVs equipped with separate fuel tanks for alternative and conventional fuels).[259]

AAMA suggested that additional problems exist regarding calculating fuel economy values for EVs. For example, the SAE J1634 procedure for calculating EV fuel-economy values currently measures only a combined metro-highway fuel economy and is thus ''inadequate for these calculations.'' [260] That Recommended Procedure also does not apply to hybrid EVs (i.e., vehicles capable of operating on electricity and conventional fuels at the same time).[261] Battery capacity for EVs also ''may vary with usage, age, temperature * * * and other factors.'' [262] Accordingly, ''[f]urther experience with these vehicles is necessary to provide an adequate prediction of the range that a consumer may achieve in-use.'' [263] More generally, AAMA concluded that

[A]ny requirement that manufacturers calculate and label vehicles with range estimates must resolve the above issues, or least be deferred until these issues can be resolved * * * These estimates not only fail to provide valuable information to customers, but may also result in failure to meet customer expectations leading to customer dissatisfaction with [AFVs].[264]

After considering the record relating to the threshold issue (i.e., whether cruising range should be disclosed on AFV labels), the Commission has concluded that such information is appropriate and will help consumers make reasonable choices and comparisons.[265] It is also one of the most important facts consumers need regarding whether and which AFV to acquire; as AAMA noted: ''This information (i.e., range) is vital for the consumer when deciding between various alternative fuels * * * .'' [266] Because cruising ranges for AFVs can differ significantly from cruising ranges for conventional fuel vehicles, with which consumers are most familiar, consumers also have a practical need for cruising range disclosures on AFV labels. As a Workshop participant stated,

[I]f I was leaving on a 50 or 60-mile trip and my cruising range could be as low as 30, I'd like to know that. So I

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[245] Five other comments generally supported the Commission's AFV labeling requirements without addressing this issue. AGA/NGVC, I–18, 2, 3; Chicago, J–2, 1; Comm Elec, I–8, 8; EIA/EEU–ISD, J–4, 1; RFA, I–3, 1–2.

[246] Boston Edison/EEI, I–14, 4.

[247] CAS, I–12, 1; NAFA, I–10, 2. DOE and Mobil also supported a disclosure of this information. DOE, J–1, 2; Mobil, I–2, 9–10, cover letter at 1.

NAFA further suggested that the Commission specify that no information ''be presented at the time an AFV is offered for sale that conflicts with information provided on the AFV label, such as cruising range.'' NAFA, I–10, 2. The Commission expects that requiring disclosure of cruising range information could encourage affected manufacturers and dealers generally to provide additional information to meet consumers' expectations and needs. *See* AGA/NGVC, G–6, 12 (''[F]uel retailers, vehicle manufacturers and trade associations can target and educate specialty markets and their consumers.''); Boston Edison, D–11, 13 (''[O]ver time, market forces will create incentives for sellers to identify and respond to consumer demands for information, much as gasoline sellers supplement the information that they are required to provide under the Commission's Octane Rule.''). The Commission concludes that it is not necessary to address this issue here, because section 5 of the FTC Act (15 U.S.C. 45) authorizes the Commission to seek corrective action if, after investigation, it has reason to believe that advertising or marketing falls within the scope of conduct declared unlawful by the statute.

[248] A fourth comment, from DOT/NHTSA, noted that NHTSA recently proposed gallon equivalent measurements for five gaseous fuels: CNG, LNG, LPG, Hydrogen, and Hythane. DOT/NHTSA, J–5, 1.

[249] API, I–15, 5.

[250] Toyota, I–11, 2. As a result, Toyota recommended that the Commission require that ''The range shall be actual driving range determined in accordance with test methods set forth in the latest SAE J1634 ''Electric Vehicle Energy Consumption and [R]ange Procedure.'' *Id.* at 3.

[251] CARB, J–3, 2.

[252] AAMA, I–16, 2.

[253] Electro Auto, I–7, 2.

[254] Ford, I–4, 2. *See also* AAMA, I–16, 2 (''[W]e have been unable to adequately develop a value which would be consistent across fuels and manufacturers or useful to customers at this time.''); Electro Auto, I–7, 2 (range is ''a difficult number to pin down with any consistency''); ETC, I–9, 2 (Commission should defer requiring disclosure ''until industry-wide accepted methodologies for range measurement are available'').

[255] AAMA, I–16, 6 (''The disclosure of vehicle range should not be provided until the standards and adjustment factors, as described above, can be developed.'').

[256] The lack of commercial fuel specifications ''results in highly variable fuel energy content which could greatly affect in-use driving range.'' AAMA, Att. II at 1.

[257] AAMA, I–16, 2, 3, Att. II at 1, 2. Chrysler, however, supported disclosure of fuel tank capacity and noted that that information was ''currently provided.'' Chrysler, I–13, 1, 2.

[258] AAMA, I–16, 3.

[259] *Id.*

[260] AAMA, I–16, Att. II at 1. AAMA notes, however, that the SAE procedure is ''currently being modified to measure city and highway energy consumption,'' and that the new procedure will be approved ''some time in 1995.'' *Id.*

[261] AAMA, I–16, Att. II at 2.

[262] *Id.*

[263] *Id.*

[264] AAMA, I–16, 3.

[265] *See, e.g.*, CAS (Tr.), 156 (range gives consumers ''the ability to compare in the showroom a very visible number that you can go from car to car to car and compare.''); (Supp.), G–17, 1.

[266] AAMA, G–7, 2. *See also* AMI (Tr.), 141 (range is one of the most important factors); NAFA (Tr.), 147 (same); Boston Edison (Supp.), G–26, 9; (Tr.), 142 (range is most important concern of people considering an EV purchase).

think I would like to know the low end of it even if there is a broad, you know, number that's not very well defined. I think it's still beneficial to know what the minimum, certainly the minimums are, because you have to be able to make it to the next fueling point.[267]

Displaying cruising-range values in a meaningful way to consumers also is feasible. Statements accompanying the cruising range values identify the disclosure as being a ''manufacturer's estimate,'' and advise consumers that actual cruising range ''will vary with options, driving conditions, driving habits and the vehicle's condition.'' Consumers are further cautioned that the labels are for comparison purposes and ''may not reflect actual driving range.'' A disclosure displayed in this format is not likely to pose problems to consumers accustomed to estimates.[268]

The Commission has also determined that calculating cruising range values is feasible, as shown by the prominence with which this factor appears in marketing and advertising claims promoting AFV use.[269] For example, Chrysler, GM and Ford have all made cruising range claims regarding their EVs in congressional testimony,[270] promotional material[271] and product specification sheets.[272] Chrysler and GM also address cruising range in owner's manuals for the 1994 Dodge Spirit[273] and 1993 Chevrolet Lumina.[274] Peugeot has made similar claims in its promotional material.[275] Companies converting cars to run on electricity[276] and electricity utilities[277] are also making cruising range claims for EVs. Similar claims are also being made for AFVs powered in whole or in part by CNG,[278] hydrogen,[279] LPG,[280] and methanol.[281] Accordingly the Commission has determined to issue its SNPR proposal regarding methods for calculating cruising range values (but with four modifications described below) because those methods generate comparable cruising-range estimates.

For example, calculating such estimates for vehicles required to comply with EPA's fuel-economy regulations should not be a problem, because the data yielding the estimates (the vehicle's fuel economy estimate and fuel tank capacity) are readily determinable.[282] For those vehicles, the estimates would simply be derived by multiplying two known values.[283] Similarly, the Commission has concluded that relying on SAE's J1634 Recommended Practice is appropriate for calculating cruising range values for EVs. The J1634 test establishes ''*uniform* procedures for testing electric battery-powered vehicles * * * [using] *standard* tests which will allow for determination of * * * [cruising] range.'' [284] The Commission also notes that DOE has proposed requiring the use of SAE J1634 to determine equivalent petroleum-based fuel economies of EVs.[285] Thus, for those vehicles, the final rule requires that cruising range be calculated using SAE J1634.

As noted, however, the Commission has modified the proposed rule in four ways in response to the comments. First, the proposed rule is modified by including a definition of fuel tank capacity for vehicles powered by gaseous and liquid fuels.[286] This modification will promote consistency of cruising range estimates where the calculations are based on fuel economy and tank capacity data. The final rule thus includes a definition for ''vehicle

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[267] RFA (Tr.), 149. *See also* RFA (Tr.), 153, (Supp.), G–5, 2 (''[G]iven the sparsity and distance between alternative fuel refueling stations, vehicle owners need to be aware of approximate range.'').

[268] AMI (Tr.), 155 (consumers understand that ''basic information'' on the label is not going to be precise).

[269] The Commission described these claims and their prevalence in detail in the SNPR. 59 FR 59666, 59687–59688. Automakers responding to the SNPR did not address this issue.

[270] For example, at a May 11, 1993, congressional hearing, representatives from Chrysler, Ford, and GM all made cruising range claims for their EVs. *See Status of Domestic Electric Vehicle Development*, 103d Cong., 1st Sess. (1993) (statement of Doran K. Samples, Program Management Executive of the Electric Minivan Project, Chrysler, at 52, 56; Roberta J. Nichols, Electric Vehicle External Strategy Manager, Ford, at 60, 64, 66; and Kenneth R. Baker, Vice President, GM, at 76).

[271] *See* GM, Progress Report, B–5, front, Spring/Summer 1993 (GM's Impact 4 EV has ''a driving range of 70 miles in the city and 90 miles in normal highway driving.''); GM, *GM's ''Impact'' Show Car and New Pre-Production Electric Vehicle Lead the 104th Tournament of Roses*, B–6, at 2, Dec. 29, 1992 (''The Impact and the pre-production car . . . have a useful range of 100 miles . . .''); GM, *General Motors Electric Vehicles Fit Most Drivers' Lifestyles*, B–7, at 1, Oct. 20, 1992 (''GM's 'Impact' prototype has a highway range of 100 miles.'').

[272] Chrysler 1994 Dodge Caravan/Plymouth Voyager, B–8, back, May 7, 1993; Chrysler 1994 Dodge Caravan/Plymouth Voyager, B–9, back, Aug. 31, 1992; Ford Ecostar, B–10, back panel, undated; GM Impact 3, B–11, back, undated; GM Impact, B–12, back, undated (''It has a practical range of 80 miles per charge.'').

[273] AAMA (Supp.), G–7, 1994 Dodge Spirit Owner's Manual at 105 (''Cruising Range: M–85 produces less energy when burned than gasoline. Therefore, cruising ranges and miles per gallon (MPG) will be considerably less when using M–85. Cruising ranges will increase as the content of gasoline in the fuel tank increases.'').

[274] AAMA (Supp.), G–17, 1993 Chevrolet Lumina Owner's Manual—Ethanol Supplement, at 4 (''When using an E–85 mixture of fuel, your Lumina has a range of 250–300 miles (400–480 km).''); 1992 Chevrolet Lumina Owner's Manual—Methanol Supplement, at 5 (''When using an M–85 mixture of fuel, your Lumina has a range of 200–250 miles (320–400 km).'').

[275] PSA Peugeot Citroen, *Electric Vehicles*, B–13, at 3–5, 1992 (Peugeot 106 has range of 90–160 km; Citela has range of 210 km @ 40 kph and 110 km city, and car continuously displays remaining range; Peugeot 405 Station Wagon has battery range of 72 km at 40 kph and highway range of 750 km at 100 kph).

[276] Dreisbach ElectroMotive, Inc., *API Demi Motorola Saturn*, B–14, front, undated (range from 140 to 518 miles depending on battery configuration); Electro Automotive, *Electro Automotive Makes Electric Cars Easy With The Voltsrabbit(tm) Kit*, B–15, front, undated (range: 60–80 miles); Solar Car Corporation, *Specifications for Chevy S–10 and GMC S–15 Pickup Truck (converted to run on electricity)*, B–16, front, Aug. 1, 1992 (''Normal Daily Range—50 to 80 miles, depending on terrain, speed and driving conditions.'').

[277] Arizona Public Service Company, *Electric Vehicle Program*, B–17, at first upper panel, undated (''Today's batteries give Evs a range of 30 to 100 miles on a single charge.''); Electric Power Research Institute, *Electric Vehicle Infrastructure: How Far Will My Electric Vehicle Take Me?*, B–18, front, 1992 (''[T]oday's EV models . . . offer a driving range of 60 to 100 miles. . . .''); Virginia Power, *The Electric Vehicle: Clean, Quiet and Efficient* (CO 923–VA/EE 93084), B–19, front, undated (Solectria Force has range of 70–90 miles); Potomac Electric Power Company, *Questions and Answers About the Solectria Force*, B–20, front, Dec. 1992 (Solectria Force has driving range of ''60 miles if the batteries are fully charged . . . The effective range of the Force using current off-the-shelf battery technology is approximately 35 to 40 miles on a charge.'').

[278] Blue Bird Body Company, Product Specifications for NGV School Buses (models TC/2000 FE and TC/2000 RE), B–21, at 3, 1992 (''Vehicle range—300 miles with 6 tanks, 150 miles with 3 tanks''); Ford, Crown Victoria dedicated CNG, B–22, front, March 3, 1993 (''The driving range for these demonstration units is approximately 200 miles.'').

[279] Mazda, *Mazda Takes Action To Address Global Environmental Concerns*, B–23, at 3, July 27, 1993 (''With a full tank of hydrogen, the Mazda HR-X has a range of up to 125 miles.'').

[280] Clean Fuels Task Force of Western Liquid Gas Association, *LPG: An Alternate Clean Air Motor Fuel With Significant Environmental and Economic Advantages*, B–24, 7, May 1992 (''LPG offers the best range per gallon of the four non-gasoline clean fuels.''); NPGA, *LP-Gas Is Moving America's Fleets*, B–25, 6, 1991 (chart comparing driving ranges for ''identical vehicles, optimized for their specific fuel.'').

[281] Ford, Taurus passenger car FFV (using gasoline or M85), B–26, front, March 4, 1993 (''Highway driving range is approximately 350 miles when using M85.''); Ford, *Ford Announces Production of 1993 Taurus FFV*, B–27, at 1, Dec. 16, 1992 (''By increasing the size of the fuel tank to 20.7 gallons, the driving range of the Taurus FFV when fueled with M85 is similar to a non-FFV Taurus.''); Ford, Econoline van and Club Wagon FFV (using gasoline and M85), B–28, front, March 4, 1993 (''The highway driving range is approximately 400 miles when using M85.'').

[282] Chrysler, I–13, 1, 2 (fuel tank capacity and fuel economy values are ''currently provided'').

[283] *See, e.g.*, Ford, G–14, 1–2, (Tr.), 145 (consumers could use fuel tank capacity and EPA's fuel economy estimates to determine approximate cruising range).

[284] B–33, 1 (emphasis added). *See also* B–33, 10 (''The purpose of this test is to determine the overall range of an electric vehicle when operated on a dynamometer over repeated driving cycles.'').

[285] 59 FR 5336, Feb. 4, 1994.

[286] Standard procedures regarding battery capacity for EVs are contained in SAE J1634.

fuel tank capacity'' derived from a DOT definition of the same term.[287] Second, the final rule requires that cruising range values for EVs be disclosed in the format generated by the SAE Recommended Practice (i.e., in a single ''combined'' city-highway range). As a result, cruising ranges for these vehicles will be displayed as a single figure (e.g., ''450 miles'') instead of in a minimum-maximum format (e.g., ''400–500 miles'').[288]

Third, because the SAE J1634 test procedures do not apply to hybrid EVs, that Recommended Practice will not generate cruising range values for those vehicles. Accordingly, the Commission has modified the definition of ''electric vehicle'' to clarify that only vehicles powered exclusively by electricity are required to calculate cruising range values by reference to SAE J1634.[289] For hybrid EVs, then, cruising range values would be calculated by reference to the ''reasonable basis'' test.

Finally, the SNPR's treatment of bi-fuel vehicles is modified to reflect the fact that those vehicles have two tanks holding separate fuels, operating on one fuel or the other.[290] With two separate tanks, the effective cruising range for such vehicles could be the sum of the cruising range for either fuel. Accordingly, the statement accompanying that disclosure will advise consumers that, ''The total possible cruising range of this vehicle is the sum of the alternative fuel range and the conventional fuel range.''

The proposed rule also included a provision requiring that manufacturers maintain records for three years demonstrating compliance with the proposed rule.[291] While EPA 92 does not expressly address this issue, the Commission believed that a reasonable recordkeeping requirement is necessary to ensure the accuracy of disclosures made pursuant to these labeling requirements. No comments addressed this issue. The Commission has concluded that the recordkeeping provision is simple, easy to comply with, and allows it to verify compliance. Accordingly, the Commission has not modified that requirement in the final rule.

(2) Environmental impact. In the SNPR, the Commission proposed that labels for new covered AFVs disclose information regarding a vehicle's environmental performance, expressed in terms of the EPA emissions standard to which the vehicle had been certified.[292] For vehicles which had not been so certified, manufacturers would place a mark in the box indicating that fact.[293] For those vehicles which had been certified as meeting an emissions standard, manufacturers would place a mark in the appropriate box indicating that fact, and then indicate on a graphic the standard to which the vehicle had been certified. The graphic would depict seven EPA emissions standards. Prior to being offered for acquisition to consumers, manufacturers of such vehicles would identify the emissions certification standard on that graphic by placing a caret above the applicable standard. The label would also contain a statement advising consumers that, ''The overall environmental impact of driving this vehicle includes many factors not measured by these standards.''

Ten comments addressed this aspect of the Commission's SNPR proposal.[294] Four comments supported including this information on new AFV labels because the information was ''an important factor'' [295] for consumers and the proposed graphic conveys this ''critical information to consumers in a highly effective manner.'' [296] One advantage of this disclosure was that consumers would not ''be dependent on marketing claims and other assertions that a vehicle [was] 'cleaner' or that the vehicle 'meets all the requirements of the Clean Air Act.' '' [297] The written disclosure accompanying the graphic also ''should provide consumers with sufficient information to understand the limits of the information conveyed by the graphic.'' [298]

Two comments supported the concept of disclosing a vehicle's emissions certification standard but suggested that the information be displayed in a different format. AGA/NGVC suggested that the statement accompanying the disclosure state that, ''The overall environmental impact of driving [any] vehicle includes many factors not [currently] measured by [existing vehicle emission] standards.'' [299] (The modifications are shown in brackets.) That comment further suggested that the graphic for this factor identify the standard to which the conventionally-fueled version of that vehicle was certified.[300] Chrysler specifically supported labeling AFVs with each vehicle's emissions certification standard, but generally opposed the Commission's proposed labeling format.[301]

Four other comments opposed requiring this disclosure on AFV labels. Mobil stated that emissions standards have no relevance in EPA 92, that fleet operators (who *are* concerned about emissions certifications) do not rely on window stickers in making purchasing decisions, and that the ''vast majority'' of the general public ''are not aware of the differing classifications'' and are not required to acquire AFVs. ''Therefore, labeling of the vehicle emissions certification will not provide any meaningful information to the majority of consumers.'' [302]

Three comments from automakers similarly opposed requiring this disclosure.[303] AAMA suggested that this disclosure be deferred until EPA had established certification standards for all alternative fuels and AFVs.[304] Electro

[287] *See* Final Rule § 309.1(gg).

[288] The Commission understands that a revision to SAE J1634 under consideration by SAE would yield cruising range values in a minimum-maximum format. The Commission will monitor SAE's review of this revision and consider changes to this Final Rule as appropriate.

[289] *See* Final Rule § 309.1(k).

[290] Flexible fuel vehicles (i.e., vehicles with one tank capable of operating on either fuel, or any mixture of the two, at the same time) are not affected by this modification. As noted previously, the Commission proposed that labels for dual fueled vehicles dislose two sets of cruising range estimates: one representing the vehicle's cruising range when operating exclusively on alternative fuel and one representing cruising range when the vehicle operates exclusively on conventional fuel. As a result, the SNPR's proposal accurately conveys the effective cruising range for these single tank AFVs.

[291] *See* proposed rule § 309.23, 59 FR 59666, 59708.

[292] 59 FR 59666, 59690. *See* text accompanying notes 320–322.

[293] EPA has not yet issued emission standards and certification test procedures for certain fuels (e.g., electricity and hydrogen).

[294] Four other comments indicated general support for the Commission's labeling proposal but did not address this specific issue. Chicago, J–2, 1; Comm Elec, I–8, 8; EIA/EEU–ISD, J–4, 1; RFA, I–3, 1–2.

[295] NAFA, I–10, 3.

[296] Boston Edison/EEI, I–14, 5. *See also* NAFA, I–10, 3 (proposed format is ''simple,'' ''easy for manufacturers to provide,'' ''appropriate,'' and will help consumers), CAS, I–12, 1 (graphic will provide consumers with at least a minimum of environmental information, but should also identify rating for comparable gasoline-fueled vehicle). DOE also specifically supported a disclosure as to this factor. DOE, J–1, 2.

[297] NAFA, I–10, 3.

[298] Boston Edison/EEI, I–14, 6. A similar disclosure on EPA's fuel economy labels ''appears to be effective in conveying to consumers that the rating provides a basis of comparison, not a guarantee of performance.'' *Id.*

[299] AGA/NGVC, I–18, 3, 4. The Commission had proposed that that statement read as follows: ''The overall environmental impact of driving this vehicle includes many factors not measured by these standards.''

[300] AGA/NGVC, I–18, 3, 4.

[301] Chrysler, I–13, 1, 2.

[302] Mobil, I–2, cover letter at 3, 10.

[303] Two comments from automakers, however, raised no objection to this disclosure. ETC, I–9 (membership includes domestic automakers); Toyota, I–11.

[304] AAMA, I–16, 3, 6. In the alternative, AAMA suggested that the Commission not require disclosure of this information under its labeling

Continued

Auto stated that AFVs should not be required to meet more stringent labeling standards than conventional fueled vehicles and that ''complete environmental impact data'' is ''impractical for a simple consumer label'' and ''misleading.'' [305] Ford stated that the proposed disclosures ''cannot, at this time, be provided in a manner which would be useful to the consumer.'' [306]

The SNPR also proposed that manufacturers be required to maintain records for three years demonstrating compliance with the proposed rule.[307] The Commission tentatively had concluded that such a provision was a reasonable means to ensure compliance with this provision. No comments addressed this issue.

After considering the record, the Commission has now concluded that requiring disclosure of EPA certification standards is appropriate and would be useful to consumers. Incorporating environmental considerations into national energy policy was a key goal of EPA 92, and ''improv[ing] our environment'' was a ''principal purpose'' of that statute.[308] EPA 92 also gives special attention to the fact that the environmental performance of alternative fuels differs, and that those differences need to be explained to consumers.[309]

The record also indicates that comparative information regarding alternative fuels will be helpful for consumers considering AFV acquisitions. Numerous comments identified information about environmental performance as being important to consumers considering AFV acquisitions.[310] DOE's information brochure does not compare the environmental performance of different alternative fuels. Instead, the brochure states: ''Generally speaking, all alternative fuels produce lower amounts of air toxics and ozone-forming emissions than does gasoline.'' [311] The Commission notes that environmental performance (as measured by emissions standards) is cited by AFV manufacturers and other interested parties in specification sheets and other promotional material in a manner not easily amenable to comparisons.[312]

Disclosure of information regarding environmental impact in a simple label format is also feasible. For several years, EPA has promulgated emissions classification standards as part of its Federal Motor Vehicle Control Program, which establishes pollution limits for ''criteria air pollutants'' (i.e., hydrocarbons (''HC''),[313] carbon monoxide (''CO''),[314] nitrogen oxides (''NOx''),[315] and particulate matter (''PM'')).[316] The standards apply to new motor vehicles manufactured in specified model years. After manufacturers submit appropriate test reports and data, the EPA Administrator issues a ''certificate of conformity'' to those vehicle manufacturers demonstrating compliance with the applicable emissions standards.[317]

Pursuant to its authority under the 1990 Clean Air Act Amendments,[318] EPA began issuing stricter emissions standards for each model year as a way of reducing levels of the criteria air pollutants. One set establishes five new standards as part of a ''clean-fuel vehicles'' program.[319] To qualify as a clean-fuel vehicle, a vehicle must meet one of five sets of increasingly stringent standards. These standards are denominated, in increasing order of stringency, TLEV (''Transitional Low Emission Vehicle''), LEV (''Low Emission Vehicle''), ULEV (''Ultra Low Emission Vehicle''), ILEV (''Inherently Low Emission Vehicle''), and ZEV (''Zero Emission Vehicle'').[320] Standards for ''clean-fuel vehicles'' are mandated for use, at present, in two EPA programs: the California Pilot Test program and Clean Fuel Fleet Program.[321] EPA staff has informed the Commission, however, that it expects that vehicles meeting these standards will not be restricted to these programs (e.g., some state programs require acquisition of clean fuel vehicles).

In the SNPR, the Commission noted that consumers could make comparisons among vehicles by reference to EPA's classification system. Specifically, because AFVs will be certified to a specific classification, certification levels provide a simple way of comparing different AFVs.[322] The information also could be useful and important to some consumers likely to consider AFV acquisitions (e.g., fleet operators and environmentally-concerned consumers).[323] Requiring disclosure of objective data allows

requirements, and instead defer to EPA. AAMA, I–16, 6.

[305] Electro Auto, I–7, 2. This comment apparently misapprehended the Commission's proposal as requiring disclosure of ''complete environmental impact data.''

[306] Ford, I–4, 2. This comment did not further address or explain why this information should not be required to be disclosed.

[307] *See* proposed rule § 309.23, 59 FR 59666, 59708.

[308] H. Rep. No. 102–474(I), 102d Cong., 2d Sess. 133, *reprinted in* 1992 U.S.C.C.A.N. 1954, 1956. The drafters also sought, *inter alia*, ''to promote cleaner alternative automotive fuels.'' *Id*.

[309] For example, the drafters of EPA 92 noted that all alternative fuels ''have different strengths, weaknesses, prices, *emissions*, and regional niches * * * .'' H. Rep. No. 102–474(I), 102d Cong., 2d Sess. 136, *reprinted in* 1992 U.S.C.C.A.N. 1953, 1959 (emphasis added). Environmental performance also is listed first in the list of factors to be addressed by DOE's information package. 42 U.S.C. 13231 (Supp. IV 1993).

[310] *See* 59 FR 24014, 24016–24017 n.62, 79, 91, 98 and accompanying text (responding to ANPR).

[311] B–3, 15. That statement is repeated in the section devoted to each of the featured fuels.

[312] *See, e.g.*, Chrysler, Plymouth Acclaim and Dodge Spirit FFV (no model year listed), B–29, back, undated (''[R]educes smog-forming emissions by at least 30 percent, and in many cases by as much as 50 percent, compared to gasoline run counterparts. In addition, toxic emissions can be reduced by as much as 50 percent.''); Chrysler, Chrysler Corporation's [CNG] Vans & Wagons (no model year listed), B–30, inside front cover, undated (''Dodge [CNG] Vehicles will meet or beat all applicable emission standards up to and including California's requirements for Ultra Low Emission Vehicles (ULEV). CNG fueled Dodge vans and wagons produce significantly less emissions of nonmethane hydrocarbons, carbon monoxide and oxides of nitrogen than similar gasoline powered vehicles.''); Ford, Taurus passenger car FFV, B–26, front, March 4, 1993 (''Emission Levels: Compared to gasoline vehicles, an ozone benefit of 30% is projected for an FFV when operating on M85.'').

See also Clean Fuels Task Force of Western Liquid Gas Association, LPG: An Alternate Clean Air Motor Fuel With Significant Environmental and Economic Advantages, B–24, 2, May 1992 (''Use of LPG as a motor fuel virtually ELIMINATES PARTICULATES, the gasoline and diesel carbon residue that makes up 25 percent of the 'brown cloud.' * * * An [EPA] test of a LPG-fueled Ford V8 full size sedan showed hydrocarbon emissions 29 percent cleaner than the accepted standard. Nitrogen oxides were down 57 percent, and carbon monoxide emissions 93% better than the then Federal standard.'').

[313] In sunlight, HC combines with nitrogen oxides to form ozone (a major component of smog). According to EPA, ''[o]zone irritates the eyes, damages the lungs, and aggravates respiratory problems. It is our most widespread and intractable urban air pollution problem. A number of exhaust hydrocarbons are also toxic, with the potential to cause cancer.'' B–31, 2.

[314] CO ''reduces the flow of oxygen in the bloodstream and is particularly dangerous to persons with heart disease.'' *Id*.

[315] NO_x are ''precursors to the formation of smog.'' *Id*.

[316] PM is a general term for soot, dust, smoke, and other tiny bits of solid material released into the air. It can cause eye, nose, and throat irritation and other health problems. B–32, 22.

[317] *See, e.g.*, 40 CFR 86.091–30 (1993) (certification procedures for 1991 model year).

[318] Pub. L. 101–549, 104 Stat. 2399 (1990).

[319] *See* 40 CFR Part 88 (1993) (''Clean-Fuel Vehicles'').

[320] According to EPA, a vehicle certified as meeting the requirements of both the ULEV and ILEV standards have lower combined exhaust and evaporative emissions than an ILEV certified vehicle.

[321] The California Pilot Test Program requires that vehicle manufacturers in California produce and sell specified minimum numbers of clean fuel vehicles. The Clean Fuel Fleet Program requires that a percentage of new vehicles acquired by certain fleet owners located in covered areas meet ''clean-fuel fleet vehicle emission standards.'' Fleet Standards Rule, 59 FR 50042, Sept. 30, 1994.

[322] Boston Edison (Supp.), G–17, 8; CAS (Supp.), G–17, 2; NAFA (Tr.), 186–87.

[323] CAS (Supp.), G–17, 2; DOE (Tr.), 172; NAFA (Tr.), 170–71.

consumers to evaluate competitive advertising and marketing claims regarding an AFV's environmental performance.[324] Finally, the recordkeeping provision is simple, easy to comply with, and allows the Commission to verify compliance with the Rule.

For the reasons described above, the Commission has determined to issue its SNPR proposal as to this subject, but with two modifications. First, the final rule specifies that if a vehicle has not been certified as meeting an EPA emissions standard, manufacturers must indicate that fact by placing a mark where appropriate on the label formats.[325] Second, the Commission agrees with AGA/NGVC's comment proposing a modification of the statement accompanying the graphic to more precisely reflect the limitations of the disclosure. Accordingly, the final rule requires that the disclosure state that, ''The overall environmental impact of driving any vehicle includes many factors not currently measured by existing vehicle emissions standards.''

The Commission also has concluded that one other suggestion (i.e., requiring disclosure of the emissions standard to which the conventionally-fueled version of a vehicle was certified) may not be practicable. All vehicles (conventional and AFVs) are designed and configured to be powered by specific fuels.[326] As a result, the performance characteristics of vehicles configured to be powered by one fuel may differ from vehicles bearing the same model name but configured to be powered by a different fuel. Comparisons between such vehicles may therefore be misleading.

b. *Specific data disclosures considered but not proposed.* As noted previously, EPA 92 directs the Commission to issue labeling requirements only ''to the greatest extent practicable,'' taking into account the problems associated with developing and publishing such information and the simple label format. Accordingly, in developing this final rule, the Commission assessed the practicality of requiring disclosure of information pertaining to all the factors cited in the comments. As to the following factors, the Commission has determined that the level of detail necessary to convey balanced, accurate, objective information to consumers (i.e., by reference to some rating or empirical value) cannot be contained on the ''simple'' label envisioned by Congress. Information overload considerations,[327] the lack of standards upon which to base required disclosures, and the easy availability of such information through other sources, led the Commission to reject including additional factors on the label.

(1) Operating costs. For example, earlier in the proceeding CAS proposed that the Commission require that operating costs be disclosed on AFV labels so that consumers will be aware ''if operating costs of an AFV will be significantly different than a comparable conventional vehicle.'' [328] Under its proposal, the AFV labels would state, ''Operating costs of this vehicle are expected to be at least 25% higher (or lower) than gasoline powered vehicles in its size class.'' [329] Because expressing this information objectively (e.g., ''operating this AFV costs 18 cents/mile'') or comparatively (e.g., ''operating this AFV costs 10% more than a comparable conventional-fueled vehicle'') could help consumers make reasonable choices and comparisons, in preparing its SNPR proposal the Commission considered whether balanced, accurate information about that factor could be contained on a simple label.

After considering the record, however, the Commission determined that requiring disclosure of specific data as to this factor is not practicable at this time.[330] The Commission received no additional comments supporting a disclosure as to this factor, and finds no basis to modify its prior determination. Accordingly, as described in section III(C)(2)(c)(1), *infra*, the Commission concludes that for purposes of this labeling rule, it is appropriate to advise consumers to consider costs when evaluating AFVs, without providing specific data on this factor.

(2) Domestic content of the fuel. Because information on the domestic content of fuel might be of interest to some consumers interested in the societal benefit of promoting domestic industries, the Commission has considered the propriety of requiring disclosure of such information on AFV labels. Several commenters suggested that the AFV label indicate the extent to which the alternative fuel powering a particular AFV was produced domestically.[331] Such a disclosure would help promote energy independence and energy security, key goals underlying EPA 92.[332] Others opposed such a disclosure because it would not be practicable.[333]

After considering the record, the Commission has determined that it is not practicable to require disclosure of objective information as to this factor on the AFV label. The Commission is aware of no consensus standards for estimating the domestic content of transportation fuels [334] and government reports addressing this topic do not cover all alternative fuels.[335] In any event, the Commission concludes that a disclosure as to this factor, even if practicable, is not feasible because of the constraints of the label format.[336] The Commission notes, however, that DOE's information brochure includes a general discussion of domestic content for each of the featured fuels. For example, the brochure states that ethanol's domestic content is ''[c]urrently as high as 100% for pure ethanol, depending on world market

[324] CAS (Supp.), G–17, 2; NAFA, G–20, 4–5. A disclosure as to this factor also will not subject AFVs to an unfair labeling standard (as compared to conventional fueled vehicles) because, as AAMA notes, ''[e]missions certification information is available for all vehicles.'' AAMA (Supp.), G–7, 1. *See also* AAMA (Supp.), G–7, 2 (same).

[325] The proposed label formats and SNPR text made this point clear, but the proposed rule language may have allowed for an erroneous interpretation. *See, e.g.*, AAMA, I–16, 3 (opposing this disclosure in part based on belief that the Commission's proposal would require disclosures based on ''reasonable assessments'' in the absence of EPA standards).

[326] *See, e.g.*, Mobil, D–16, 3 (''The fuel and vehicle are a system. Benefits that may be portrayed as being associated with a particular vehicle are really a function of the combination of the fuel and the vehicle.'').

[327] AAMA (Tr.), 164–65 (''[W]e feel there is an enormous amount of information that a consumer has to know about . . . [AFVs] including electric vehicles, and if any attempt is made to put every factor on the label it's going to end up information overload and do nothing but confuse the consumer.''); Ford (Tr.), 175–76 (sticker is not appropriate place to provide detailed information; consumers need information before they get to the dealership).

[328] CAS, G–17, 3, (Tr.), 166, (Supp.), 3. EPA's fuel economy label discloses the vehicle's annual fuel costs, but that figure does not include other operating costs. EPA (Tr.), 166.

[329] Id.

[330] 59 FR 59666, 59691–59692.

[331] Boston Edison, I–14, 7; (Supp.), G–26, 9–11, 12; (Tr.), 202; RFA, G–5, 5; UCS (Tr.), 201–2, 208.

[332] H. Rep. No. 102–474(1), 102d Cong., 2d Sess. 132.

[333] AMI (Tr.), 206; API (Tr.), 201; NPGA (Tr.), 203.

[334] NPGA (Tr.), 203.

[335] Boston Edison stated DOE's Energy Information Administration (''EIA'') publishes the data necessary to determine the domestic content of motor vehicle fuel. Boston Edison (Supp.), G–26, 11. EIA's reports, however, do not cover all the alternative fuels. See Boston Edison (Supp.), Exhibit 4 (no data for ethanol, methanol, hydrogen, or LPG).

[336] RFA generally supported a disclosure as to this factor but noted at the Workshop that:

I question whether or not we want that to be [on] a label on the vehicle because I think we've added enough stuff now that it's really a scroll * * * But perhaps maybe the reference to the brochure and then maybe the DOE since they would have access to the EIA information readily available, maybe it should go into the information brochure. . . I think it would be too difficult to keep it up in the context of a label.

RFA (Tr.), 207–08.

price.''[337] Accordingly, as described in section III(C)(2)(c)(1), *infra,* the Commission concludes that consumers should be advised to consider this factor when evaluating AFVs, but that labels should not include specific data on this factor.

(3) Fuel economy/energy efficiency. In developing this final rule the Commission has considered whether requiring disclosure of fuel economy or energy efficiency information would be useful to consumers.[338] However, EPA, which is responsible for compiling fuel economy information for the federal fuel-economy labeling program, has plans to establish labeling requirements for AFVs powered by all alternative fuels.[339] Therefore, the Commission concludes that requiring fuel economy information on its labels would be duplicative, and possibly confusing. It has thus determined that such information should not be disclosed on its AFV labels.

(4) Appropriate fuel, fuel availability, fuel grade, and refueling time. The Commission received comments suggesting that disclosure of other information (e.g., appropriate fuel for the vehicle,[340] fuel availability,[341] fuel grade,[342] and refueling time[343]) should be required on AFV labels. The Commission notes that the fuel to be used in the vehicle will be easily ascertainable (either from EPA's fuel economy labels or information voluntarily supplied by AFV manufacturers). However, some consumers may not be familiar with the availability of AFVs powered by different alternative fuels. Accordingly, the Commission finds that while requiring disclosure of fuel type is not necessary for AFV labels, as described in section III(C)(2)(c)(1), *infra,* consumers should be advised to consider this factor when evaluating AFVs. As to the remaining factors, the Commission believes that disclosures are impractical because all useful information simply cannot fit in a simple label. The Commission also is not aware of a standard methodology or established practice for calculating any of those factors, and no commenter addressed that subject.

The Commission notes, however, that fuel availability and refueling methods, two topics proposed by comments for the labels (including refueling time for electricity and CNG) are addressed in the DOE brochure.[344] Accordingly, as described in section III(C)(2)(c)(1), *infra,* the Commission concludes that consumers should be advised, as a general matter, to consider those factors when evaluating AFVs. In addition, because the Commission has determined that consumers need basic comparative information while refueling, the principal component of alternative fuels is required to be disclosed by the Commission's Fuel Rating Rule[345] and this final rule.

c. Descriptive Disclosures on AFV Labeling. In the SNPR, the Commission proposed that the specific data disclosures on labels for new covered vehicles (i.e., cruising range and EPA certification level) be supplemented with general, descriptive information pertinent to all consumers considering an AFV purchase.[346] These descriptive disclosures would comprise the second and third parts of the AFV label.[347] The second part of the AFV label would contain a list of factors consumers should consider before acquiring an AFV. The third part would advise consumers of toll-free telephone numbers they could call to obtain further pertinent information from the federal government. The Commission's proposals as to these two parts, and the comments addressing those proposals, are described below.

(1) List of comparative factors. The Commission believed that requiring a list of factors consumers could use to consider and compare AFVs would encourage AFV manufacturers, conversion companies, and dealers to provide additional information to meet consumers' expectations and needs.[348] The Commission also believed that a list of comparative factors could help consumers evaluate information disclosed on other labels, in advertising, and from other sources. Accordingly, the SNPR proposed that labels for new covered vehicles contain a section under a standard heading, stating, ''Before selecting an Alternative Fuel Vehicle (AFV) make sure you consider:.'' The labels would then list the following five factors consumers should consider before purchasing an AFV: fuel type (i.e., the fuel or fuels that power the vehicle); operating costs; performance/convenience (i.e., cold start capability, refueling/recharging time, acceleration rates, and refueling methods); fuel availability; and energy security/domestic content of fuel.[349]

Each factor would be supplemented with a brief explanation of how it is relevant to an AFV purchase. For example, for fuel type, the label would contain a statement that consumers should be aware of which fuel(s) powers that particular AFV. For operating costs, the label would state that fuel and maintenance costs for AFVs differ from gasoline or diesel-fueled vehicles and can vary considerably. A similar format was proposed for the three other comparative purchasing factors (i.e., performance/convenience,[350] fuel availability,[351] energy security/domestic content of fuel.[352]

The Commission proposed a nearly identical format for used covered vehicles. For those labels, the SNPR proposed that the labels contain the same standard heading followed by a list of factors. Four of the factors on that list would be displayed identically to the list for new covered vehicles.[353] The description of one factor (performance/convenience) would be modified slightly, by adding a reference to cruising range differences between

[337] B–3, 18.

[338] In its initial comment Boston Edison stated that energy efficiency could be expressed as ''efficiency per BTU'' or ''efficiency per mile,'' but did not otherwise define a basis for these disclosures. Boston Edison, G–26, 3–4. *See also* Boston Edison (Supp.), G–26, 5–7. Although not stated, it appears that this suggestion was limited to labeling for electric vehicles. At the Workshop, CAS supported a disclosure for this factor, CAS (Tr.), 194, but later indicated that it was satisfied that EPA fuel economy labels will give consumers sufficient information on the comparative energy efficiency of competing vehicles during driving. CAS (Supp.), G–17, 3.

[339] EPA, H–4, 1, 3.

[340] API, G–25, 5.

[341] CAS, G–17, 3. AGA/NGVC stated that the AGA's manual of available CNG fueling stations should be ''referenced,'' but did not indicate whether that should be on the AFV label or in the DOE brochure. AGA/NGVC (Tr.), 195. The Commission notes that the DOE brochure lists AGA and NGVC as sources for additional information about CNG-powered AFVs. *See* B–3, 23.

[342] MC-MD, H–7, 2. *See also* NACAA (Tr.), 196 (to the extent there are different grades, ''we don't know all the fuels out there'').

[343] DOE, H–10, 6; (Tr.), 172–73.

[344] See B–3, 16 (electricity), 18 (ethanol), 20 (methanol), 22 (CNG), 24 (propane).

[345] *See* 16 CFR 306.10(a) (1994) (requiring retailers to post automotive fuel ratings).

[346] 59 FR 59666, 59693–59695.

[347] Labels for used covered vehicles, which would not require disclosure of specific data disclosures, would simply disclose the descriptive information.

[348] 59 FR 59666, 59693.

[349] 59 FR 59666, 59694.

[350] For performance/convenience, the labels would state that vehicles powered by different fuels differ in their cold-start capabilities (i.e., ability to start a cold engine), refueling and/or recharging time (i.e., how long it takes to refill the vehicle's tank to full capacity), acceleration rates, and refueling methods.

[351] For fuel availability, the labels would advise consumers to determine whether refueling and/or recharging facilities that meet their driving needs have been developed for this vehicle and will be readily available in their area.

[352] For energy security/domestic content of fuel, the labels would state that alternative fuels can reduce U.S. reliance on imported oil, especially if all of the fuel's components are produced in this country. Consumers are then advised to consider whether the fuel powering this vehicle is typically produced domestically or is imported.

[353] Fuel type, operating costs, fuel availability, and energy security/domestic content of fuel.

different fuels.[354] This reference was added to account for the fact that labels for used covered vehicles would not disclose the vehicle's cruising range. Finally, a new factor—environmental impact—was added to the list to account for the fact that labels for used covered vehicles would not disclose any objective information as to that factor. The description for this factor would advise consumers that all vehicles (conventional and AFVs) affect the environment directly (e.g., tailpipe emissions) and indirectly (e.g., how the fuel is produced and brought to market). Consumers would then be advised to compare the environmental costs of driving an AFV with a gasoline-powered vehicle.

Four comments offered general comments regarding this aspect of the Commission's proposal.[355] Three comments opposed including a standard list of factors on AFV labels. AAMA stated that requiring disclosure of the list exceeded the Commission's statutory mandate (because the information ''is neither cost nor benefit information''), is redundant with information required to be disclosed by DOE, and may discourage consumers interested in AFVs because of its ''cautionary tone.''[356] Two other comments characterized the list as ''unnecessary, [and] uninformative'' [357] and of ''minimal value.''[358] Mobil, however, supported including the ''fairly comprehensive'' list of factors because it provided a framework for evaluating issues relevant to AFVs in general.[359]

Other comments were directed to specific factors on the comparative list. For example, four comments addressed the factor concerning energy security/domestic content of fuel. API stated that the proposed language ''may be stronger than the FTC can continue to defend'' because future alternative-energy demands may not be met by domestic sources.[360] One comment suggested that this factor be replaced with a specific data disclosure on the subject, based on data supplied by EIA.[361] Mobil suggested that the factor's description be revised so that consumers were advised that information as to this subject was available from EIA.[362] DOE, however, supported the Commission's proposal regarding this topic.[363] In addition, CAS suggested that the explanation regarding two of the factors on the list—fuel availability and operating costs—should state specifically that further information as to those factors is available from DOE.[364]

After considering the record, the Commission has determined to issue its SNPR proposal as to this subject with one modification. As to the threshold issue of whether AFV labels should include a list of comparative factors, the Commission notes that the standard list of factors for comparisons proposed in the NPR (and again in the SNPR) does not, by itself, disclose comparative cost-benefit information. Thus, in developing this final rule the Commission has considered whether including such a list on AFV labels would constitute ''appropriate information with respect to costs and benefits'' (as that phrase is used in section 406(a)), and would be useful to consumers in undertaking a cost-benefit analysis regarding whether to acquire an AFV or what type of AFV. As noted, numerous commenters indicated that this approach would provide consumers with useful information. In addition, the Commission cannot, as a practical matter, require disclosure of comparative information as to every relevant factor given the constraints of a simple label format. Accordingly, the Commission has concluded that the AFV labels should contain a standard list of factors consumers should consider before acquiring an AFV.[365]

The Commission has concluded, however, that one factor on the list—energy security/domestic content—should be modified to reflect concerns raised in the comments. As noted previously, the final rule does not require an objective disclosure as to domestic content because it cannot feasibly be displayed on a label.[366] The Commission further agrees that the effective meaning of the ''domestic'' content of fuels will likely change as a result of international free-trade agreements such as the North American Free Trade Agreement. As a result, identifying the country of origin of a given fuel will not always be useful information to consumers.

In its place, the final rule defines this factor in terms of consumers' interest in ensuring long-term fuel availability at a reasonable price from secure source countries. Accordingly, that factor is denominated ''energy security/renewability'' in the final rule, and the explanatory statement advises consumers, ''Consider where and how the fuel powering this vehicle is typically produced.'' Labeling for used covered vehicles will follow an identical format.

The final rule retains the remaining factors because all will likely be important for consumers to consider before purchasing an AFV.[367] Information about the AFV's fuel type will be available directly from the dealer; and the other factors are addressed in DOE's information brochure.[368] The Commission has considered but decided against modifying the explanations for fuel availability and operating costs (to state explicitly that further information is

[354] On this label, consumers would be advised that vehicles powered by different fuels differ in terms of their cruising range (i.e., how many miles the vehicle will go on a full supply of fuel).

[355] Six other comments generally supported the entirety of the Commission's SNPR proposal. AGA/NGVC, I–18, 2, 3; Chicago, J–2, 1; Comm Elec, I–8, 8; EIA/EEU–ISD, J–4, 1; NAFA, I–10, 1, 2; RFA, I–3, 1–2.

[356] AAMA, I–16, 2, 6. As noted previously, three comments fully supported AAMA's comment. Chrysler, I–13, 1; Ford, I–4, 2; NGVPA, I–19, 1.

[357] Chrysler, I–13, 1, 2.

[358] Boston Edison/EEI, I–14, 6–7.

[359] Mobil, I–2, 11, cover letter at 1.

[360] API, I–15, cover letter at 2. API also stated that references to domestic products should agree with the treatment given that topic under EPA 92 and the North American Free Trade Agreement, under which ''domestic products are defined much more broadly.'' *Id.* at 3.

[361] Boston Edison/EEI, I–14, 7. This comment acknowledged, however, that EIA does not publish appropriate data for all alternative fuels. In those circumstances, Boston Edison/EEI suggested that the labels simply note that ''information is not yet available for those fuels.'' *Id.*

[362] Mobil,I–2 (cover letter at 2–3, 7–8) (''Check with [EIA] or request a copy of their Annual Energy Outlook to determine what percentage of the fuel powering this vehicle is from domestic or foreign sources.'').

[363] DOE, J–1, 2.

[364] CAS, I–12, 2 (E.g., ''For information on operating costs, contact DOE at the number listed below.). Electro Auto also addressed the operating costs factor; this comment may have misapprehended the SNPR as proposing that actual operating costs be disclosed on AFV labels. Electro Auto, I–7, 2 (supports requiring disclosure of comprehensive operating costs for AFVs only if conventional vehicles are required to disclose comparable information).

[365] The Commission reached a similar conclusion when it issued warranty labeling requirements for used motor vehicles. Those requirements are designed to help consumers evaluate and compare warranty coverage and counteract dealer misrepresentations. In that proceeding, the Commission determined that requiring disclosure of a standard list of major defects that can occur in used motor vehicles could convey useful information to consumers. *See* Used Motor Vehicle Trade Regulation Rule, Statement of Basis and Purpose, 49 FR 45692, 45706, Nov. 19, 1984 (list of major defects that can occur in used motor vehicles provides consumers with a framework for evaluating and comparing warranty coverage and counteracts dealer misrepresentations).

[366] *See supra* section III(C)(2)(b)(2).

[367] *See* 59 FR 24014, 24016 nn.68, 70, 75, 79 and 24017 nn.83, 87, 89, 97, 101, 102, 106 and accompanying text (ANPR commenters identifying those factors as being important to consumers).

[368] EPA fuel-economy labels also disclose information regarding fuel type and operating costs. But those labels are not yet required for AFVs powered by all alternative fuels. 59 FR 39638, 39639.

available from DOE) because it believes that the label's format already adequately conveys that information.

(2) Referral to other sources of information. In the SNPR, the Commission tentatively determined that a precise reference to DOE's consumer information brochure and NHTSA's vehicle safety hotline was appropriate on labeling for new and used covered AFVs. Accordingly, the Commission proposed that label formats for new and used covered vehicles include standard statements informing consumers that they can obtain (1) copies of a free consumer-information brochure and general information about AFVs by calling the toll-free telephone number for DOE's National Alternative Fuels Hotline, and (2) vehicle safety information by calling the toll-free telephone number for DOT/NHTSA's Auto Safety Hotline.[369]

Five comments addressed this issue.[370] Chrysler opposed requiring disclosure of referral information based on its belief that the labels should disclose information pertinent to specific AFVs.[371] The remaining four comments supported reference to one or both of the toll-free hotlines.[372]

The referral statement proposed in the SNPR does not, by itself, disclose objective cost-benefit information. In developing this final rule, the Commission has thus considered whether including the proposed statement on AFV labels would help consumers make reasonable choices and comparisons. The Commission also considered whether including such a statement was feasible, given the constraints of a simple label format.

After considering the record, the Commission concludes that including a standard statement referring consumers to pertinent sources of government information is consistent with section 406(a)'s legislative purpose. As noted, comments indicated that a referral to objective information sources would be useful to consumers. In addition, while EPA 92 directed DOE to ''produce and make available'' an information package, the statute does not require AFV manufacturers or dealers to provide consumers with copies of the information package or to notify them of its availability.[373] To address that apparent omission, AFV labels would contain a statement informing consumers that further information about AFVs is available from DOE. The labels also would inform consumers that information about another pertinent factor—vehicle safety—is available from the federal agency responsible for regulating the safe performance of motor vehicles.[374]

Given the nature of the disclosure, the Commission believes that consumers considering either new or used AFVs would find it equally relevant. Accordingly, the Commission has determined that label formats for new and used covered vehicles will include references to DOE's National Alternative Fuels Hotline and DOT/NHTSA's Auto Safety Hotline, as proposed in the SNPR.

3. Consolidation

As noted previously, EPA 92 requires the Commission to consolidate its AFV labels with other labels providing information to consumers ''where appropriate.'' In developing the SNPR, the Commission thus considered whether the information the Commission will require for AFVs could be incorporated into existing labels (e.g., EPA's fuel economy label or the Commission's used car Buyers Guide), or whether existing label information could be incorporated into its AFV labels. For both options, the Commission noted that consolidation could help consumers by collecting pertinent information in a central location. Industries affected by the labeling requirements could also benefit by possibly reducing their compliance costs. However, disturbing labeling formats with which consumers are familiar could create confusion. Attempting to fit additional disclosures into existing labels also raises the possibility that the label will overload consumers with excessive amounts of information. Accordingly, the Commission tentatively concluded that consolidating the information proposed to be disclosed with other labels providing information to consumers was not appropriate.

Three comments addressed the Commission's SNPR proposal as to consolidation.[375] Mobil stated that this issue could best be answered by vehicle manufacturers.[376] Comments from AAMA and Chrysler opposed the Commission's proposal. Chrysler stated that manufacturers should have flexibility to determine how best to label vehicles to provide the required information, either by issuing a separate label or combining it with another label as appropriate for the vehicle being labeled.[377] AAMA supported the Commission's proposal not to consolidate the new disclosures on EPA's fuel economy label, but stated that manufacturers ''must be given the flexibility to incorporate the additional information required by the FTC on existing labels.'' [378]

After considering the record, the Commission has determined that consolidating new AFV disclosures with other labels providing information to the consumer is not appropriate. Consolidation as required by EPA 92 could be undertaken in one of two ways: incorporating existing disclosures into new AFV labels, or new AFV disclosures into existing labels. As to the first category, the Commission notes that no comment responding to the SNPR supported such incorporation. The Commission also believes that providing the information already displayed on other labels on its AFV labels (in a different format) could confuse consumers and is therefore unnecessary.

As to the second category, consolidating information required by the Commission into existing labels would not be appropriate because those labels do not have sufficient extra space to accommodate new AFV disclosures. For example, EPA stated that new AFV information could not reasonably be incorporated into its fuel economy label because that label already is

[369] *See* Figure 6 (new covered vehicles) and 8 (used covered vehicles), 59 FR 59666, 59712, 59714.

[370] Two other comments made general reference to this issue. AAMA did not address the issue in its written comment but included the referral information in its proposed AFV label. AAMA, I–16, Att. III. In an earlier comment filed in this proceeding, AAMA indicated support for labels which disclosed ''instructions on where to obtain additional information (e.g., DOE's [information brochure]).'' AAMA, G–7, 1. RFA's comment was to ''encourage some formal review process of the DOE brochure'' by industry. RFA, I–3, 2.

[371] Chrysler, I–13, 1. Chrysler also stated generally that the information proposed for the back side of the AFV labels was ''unnecessary, uninformative, and due to its location, unreadable under many circumstances.'' *Id.* at 2.

[372] Boston Edison/EEI, I–14, 7 (''provides consumers with valuable information directly pertinent to purchasing decisions''); DOE, J–1, 2 (supports reference to DOE's Hotline and information brochure); DOT/NHTSA, J–5, 2 (supports reference to NHTSA's vehicle safety hotline); Mobil, I–2, 11 (supports generally and wants DOE brochure to be ''peer and technically reviewed'' before publication of updates and revisions).

[373] 42 U.S.C. 13231 (Supp. IV 1993).

[374] DOT/NHTSA, H–1, 1.

[375] Seven other comments indicated general support with the Commission's AFV labeling proposal without addressing this particular issue. AGA/NGVC, I–18, 2, 3; Boston Edison, I–14, 4; Chicago, J–2, 1; Comm Elec, I–8, 8; EIA/EEU–ISD, J–4, 1; NAFA, I–10, 1, 2; RFA, I–3, 1–2.

[376] Mobil, I–2, 12.

[377] Chrysler, I–13, 1, 2.

[378] AAMA, I–16, 2, 5.

''crowded.'' [379] As discussed below,[380] the Commission also believes that allowing manufacturers the option of determining where the required disclosures would be displayed is similarly not appropriate.

4. Label Size and Format

In the SNPR, the Commission proposed that AFV labels be reduced from the size proposed in the NPR and measure 7 inches wide by 5½ inches high.[381] The Commission further proposed that information required to be disclosed by its AFV labeling requirements be displayed on a visible window surface in three label formats. The first label format would be for new covered AFVs designed to operate solely on alternative fuel. Figures 4 and 6 in the SNPR illustrated samples of this format; figure 4 (containing objective information particular to that vehicle) would appear on the front of the label, and figure 6 (containing general information) would appear on the back.

The second label format would be for new covered vehicles capable of operating on alternative fuel and on conventional fuel. Figures 5 and 6 of the SNPR illustrated samples of this format; figure 5 (containing objective information particular to that vehicle) would appear on the front, and figure 6 again would appear on the back. The third label format would be for used covered AFVs. Figures 7 and 8 of the SNPR illustrated samples of this format; figure 7 would appear on the front, and figure 8 would appear on the back.

The proposed rule also addressed general format issues common to all three labeling formats. For example, headlines and text for all labels were standard as illustrated in the sample labels.[382] In addition, no marks or information other than that specified in the proposed labeling requirements would appear on any of the labels.[383]

Six comments addressed the Commission's SNPR proposal regarding AFV label size and format.[384] Comments from Boston Edison/EEI and CAS supported the proposed label's display of information concerning cruising range and EPA certification standard.[385] Comments from the City of Chicago did not address the specifics of the Commission's proposal, but instead suggested that cost-benefit labels be permanently affixed to AFVs.[386]

The remaining three comments from some domestic automakers, however, objected to the size and format of the proposed AFV labels. For example, AAMA opposed a standard label format and stated that manufacturers should have the option of placing new required information on existing labels.[387] AAMA also stated that the proposed format was ''unintentionally misleading'' because it ''yielded the impression * * * that the characteristics described are the most important to consider when purchasing an AFV.'' [388] In addition, AAMA stated that the proposed label formats lacked sufficient extra space,[389] were too large,[390] and should be limited to one side.[391]

As noted, required labeling under the Commission's AFV labeling requirements must be ''simple.'' Accordingly, in developing this final rule the Commission has assessed how best to meet consumers' information needs, and the practical constraints of vehicle labeling. To that end, the Commission has considered whether allowing manufacturers the option of determining where the required disclosures would be displayed would promote simple labeling useful to consumers.

The Commission notes that consumers generally have little familiarity with competing alternative-fuel options or AFV technology, or how those options and technology compare with conventional fuels or vehicles. The Commission also notes that consumers need pertinent information to help them make comparisons between the competing fuel options and technologies. The Commission therefore believes that consumers would best be served if the information to be disclosed is displayed on labels in a standard, uniform format. The Commission also believes that the proposed label formats disclose information in a fair and balanced manner.[392]

After considering the record, however, the Commission has determined that it should modify two aspects of its SNPR proposal to address practical concerns raised by the domestic automakers. First, the final rule removes the SNPR requirement that AFV labels be posted on visible ''window'' surfaces. As a result, conspicuous posting of the label on any visible surface constitutes compliance with the final rule. Second, the final rule removes the requirement that AFV labels appear in a two-sided format. Under this revision, the labels can either be displayed immediately adjacent to each other (on two sheets), or in the two-sided format proposed in the SNPR, at the discretion of the manufacturer.

5. Effective Date

In the SNPR the Commission proposed that its AFV labeling requirements be effective ninety days after publication of a final rule in the **Federal Register**, and sought comment on that proposed effective date.[393] AAMA and Chrysler addressed this issue, and both contended that

[379] EPA (Tr.), 211 (''Everybody saw how crowded this (i.e., the EPA label) already was. I guess it depends on what type of information ultimately ends up whether we would have difficulties with consolidating the EPA's label. But we're looking at information overload right now.''). DOE, in a comment responding to the Commission's ANPR, stated further that, ''Survey work has indicated that the fuel economy label already contains too much information * * *''). DOE, E–10, 4.

[380] *See infra* section III(C)(4).

[381] *See* proposed rule §§ 309.20(b) (for new covered vehicles), 309.21(b) (for used covered vehicles), 59 FR 59666, 59707.

[382] See proposed rule §§ 309.20(e) (for new covered vehicles), 309.21(e) (for used covered vehicles), 59 FR 59666, 59707.

[383] See proposed rule §§ 309.20(b) (for new covered vehicles), 309.21(b) (for used covered vehicles), 59 FR 59666, 59707.

[384] Six additional comments indicated general support for the Commission's labeling proposal but did not address this specific issue. AGA/NGVC, I–18, 2, 3; Comm Elec, I–8, 8; EIA/EEU–ISD, J–4, 1; Mobil, I–2, cover letter at 2; 6; NAFA, I–10, 1, 2; RFA, I–3, 1–2. Mobil also stated that this issue could best be answered by vehicle manufacturers, and Toyota misapprehended the Commission's SNPR proposal as requiring the posting of alternative fuels labeling on vehicles. Mobil, I–2, 12; Toyota, I–11, 1.

[385] Boston Edison/EEI, I–14, 6 (''The graphic chosen by the Commission to display emission standard certifications conveys this critical information to consumers in a highly effective manner.''); CAS, I–12, 1 (''The proposed label format [for cruising range] will adequately convey this important information to consumers.'').

[386] Chicago, J–2, 2, 3 (permanent labeling will promote AFVs and alternative fuels, provide public education and increase public awareness, and assist in implementing traffic control programs for AFVs such as preferential parking).

[387] AAMA, I–16, cover letter at 1. *See also* Chrysler, I–13, 1, 2 (manufacturers should have flexibility to determine whether to issue a separate label or combine it with another).

[388] AAMA, I–16, 2. *See also* Ford, I–4, 2 (proposed format overemphasizes importance of the required information as decision criteria).

[389] AAMA, I–16, 4 (''Due to the layout and large font, the label does not have extra space. If additional information were required in the future, the label would have to be reformatted to accommodate added text. This would be costly and require lead time.'').

[390] AAMA, I–16, 4 (''[M]anufacturers are faced with several existing and forthcoming labeling requirements. On many vehicles, they are simply running out of room to place new labels, especially one of the size proposed by FTC.''). See also Ford, I–4, 2 (the proposed size promotes information overload, because ''it establishes yet another label on an already crowded vehicle which the consumer must read to gather pertinent information.'').

[391] AAMA, I–16, 4, 5, 6 (two-sided label will be difficult to read, and consumers will quickly forget phone numbers on the back if they do not copy them down). *See also* Ford, I–4, 2 (opposes two-sided label).

[392] In fact, comments from the groups representing the natural gas and ethanol industries supported the proposed label formats. AGA/NGVC, I–18, 2, 3; RFA, I–3, 1–2.

[393] 59 FR 59666, 59697.

manufacturers would require additional lead time to comply with the new labeling requirements.[394] AAMA explained that the Commission's labeling requirements would require manufacturers to design, order, produce, deliver, and integrate new labels into the vehicle production process. For new covered vehicles, the system would also need to accommodate internal coding and tracking data, to account for the fact that the labels would disclose information specific to each vehicle. AAMA also stated that the two-sided format for those labels created even greater complications with printing and application.[395] As a result, ninety days did not allow adequate time for compliance. AAMA suggested that the AFV labeling requirements be effective at least 180 days after publication ''if manufacturers are given the option to use existing labels. Otherwise, we recommend that the FTC allow at least 9 months lead time.'' [396] Chrysler stated that it would need 180 days to implement the introduction of a new label.[397]

EPA 92 does not address when the Commission's AFV labeling requirements must be effective. In developing this final rule the Commission has thus considered how best to balance consumers' needs for comparative information with industry's need for a reasonable period of time to come into compliance. For consumers considering those vehicles, the Commission notes that some consumers may need comparative information shortly after this notice's publication date, because EPA 92's fleet acquisition mandates begin with fiscal year 1996 for the federal fleet [398] and model year 1996 for alternative fuel providers.[399] However, it is not clear that these consumers (i.e., the ones most likely to be affected by a longer effective date) would make purchasing decisions based on a vehicle label: the federal government, because of its purchasing power, and the fuel providers, because of their own experience and expertise.

The Commission also notes that for used covered AFVs, the final rule requires disclosure of standard information in a uniform format.[400] Implementation of that requirement would thus simply require obtaining copies of the required label format and arranging for posting on affected vehicles. Because the market for used vehicles powered by alternative fuels is not extensive at this time, allowing sellers additional time to comply with the labeling requirements will not result in undue hardship to consumers.

After considering the comments, the Commission concludes that the proposed effective date (i.e., ninety days after publication in the **Federal Register**) will not provide AFV manufacturers and dealers with sufficient time to prepare to comply with the new labeling requirements. Instead, the final rule requires compliance within 180 days after publication in the **Federal Register**, a period that is reasonable and consistent with EPA 92's legislative program. The final rule, however, does not preclude AFV manufacturers and dealers and used AFV sellers from posting the required labels before the rule's effective date. Further, consumers will be able to obtain information about AFVs from DOE before (as well as after) these labels are required.

6. Updating AFV Labeling Requirements

As noted previously, EPA 92 directs the Commission to update its labeling requirements ''periodically'' (a duration not otherwise defined in the statute) ''to reflect the most recent available information.'' [401] This requirement contrasts with EPA 92's direction to DOE to update its consumer information package ''annually.'' [402] In the SNPR, the Commission proposed to keep apprised of pertinent technological advances, monitor the extent to which other governmental agencies impose labeling requirements, and then update its AFV labeling requirements as appropriate.[403]

Three comments addressed this issue.[404] Boston Edison/EEI ''strongly support[ed]'' the Commission's proposal because regular updates on a fixed schedule ''might result in an arbitrary maintenance of problematic or outmoded rule provisions.'' [405] Mobil generally supported the Commission's proposal ''as long as the prerogative is not abused through excessive use.'' [406] AAMA suggested that the Commission's label formats were ''relatively inflexible'' and, as a result, ''the Administrator [407] should have the discretional authority to be able to approve alternative labeling formats, upon the request of automotive manufacturers, without required additional rulemaking.'' [408]

After considering the record, the Commission has determined that it should update its AFV labeling requirements as proposed in the SNPR. Given the irregular pace of technological development and regulatory activity, the Commission finds that a flexible approach will best meet consumers' needs. For example, although the Commission understands that EPA will promulgate rules that require fuel economy labeling for vehicles powered by LPG, hydrogen, electricity and other alternative fuels,[409] the Commission cannot predict when those standards will be adopted. At a minimum, a review of the Rule will be conducted once every ten years, pursuant to the Commission's ongoing program to review all its rules and guides at least once every ten years. Accordingly, the final rule will be updated as appropriate based on the Commission's ongoing review of all pertinent developments.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA'') requires agencies to prepare a regulatory flexibility analysis when publishing a proposed rule unless the proposed rule, if promulgated, would not have a ''significant economic impact on a substantial number of small entities.'' [410] In the SNPR, to ensure the accuracy of the required dispenser labels, the Commission proposed substantiation, certification, and

[394] A third commenter stated that this issue could best be answered by vehicle manufacturers. Mobil, I–2, 12–13. Eight other comments indicated general support for the Commission's AFV labeling proposal without addressing this issue. AGA/NGVC, I–18, 2,3; Boston Edison, I–14, 1; Chicago, J–2, 1; Comm Elec, I–8, 8; EIA/EEU–ISD, J–4, 1; Mobil, I–2, cover letter at 2; 6; NAFA, I–10, 1, 2; RFA, I–3, 1–2.

[395] AAMA, I–16, 3–4, 6.

[396] AAMA, I–16, 6.

[397] Chrysler, I–13, 2.

[398] 42 U.S.C. 13212 (Supp. IV 1993).

[399] 42 U.S.C. 13251 (Supp. IV 1993). Acquisition requirements for private fleet operators begin in model year 1999. 42 U.S.C. 13257 (Supp. IV 1993).

[400] *See* Final Rule § 309.203(e) (content of labels for used covered vehicles).

[401] 42 U.S.C. 13232(a) (Supp. IV 1993).

[402] 42 U.S.C. 13231 (Supp. IV 1993).

[403] 59 FR 59666, 59697.

[404] Six other comments generally supported the Commission's AFV labeling proposal without addressing this issue. AGA/NGVC, I–18, 2, 3; Chicago, J–2, 1; Comm Elec, I–8, 8; EIA/EEU-ISD, J–4, 1; NAFA, I–10, 1, 2; RFA, I–3, 1–2.

[405] Boston Edison/EEI, I–14, 8. They also suggested that the Commission monitor the standards upon which its disclosures are based, to ''avoid inadvertent reliance upon inappropriate or outmoded performance criteria.'' Id. at 3.

[406] Mobil, I–2, 13. Mobil noted that frequent label changes during a single model year ''may cause confusion . . . and detract from the rule's intended purpose of informing the consumer. Truly pertinent and important information should be the only reason for a label change more frequently than one time per model year.'' Id.

[407] This appears to be a reference to EPA's management structure. The Commission is an independent administrative agency composed of five members appointed by the President and confirmed by the Senate for terms of seven years. 16 CFR 0.1 (1994). It has no ''Administrator.''

[408] AAMA, I–16, 4.

[409] 59 FR 39638, 39639.

[410] 5 U.S.C. 603(a), 605(b).

recordkeeping requirements for importers, producers, refiners and distributors of gaseous alternative fuels, and manufacturers and distributors of electric vehicle fuel dispensing systems. The Commission also proposed substantiation, recordkeeping and disclosure requirements for retail sellers of the three non-liquid alternative vehicle fuels. In addition, the Commission proposed requiring that AFV manufacturers determine and disclose on labels certain product-specific information, and maintain records to substantiate the two product-specific disclosures that must be included on labels.

The Commission preliminarily concluded that the proposed rule, if enacted, would have a minimal effect on all business entities within the affected industries, regardless of their size. Available information suggested that approximately 1,000 companies import, produce, refine, distribute, or retail CNG to consumers. Further, only approximately 50 companies manufacture or distribute electric vehicle fuel dispensing systems, and no more than 250 retail companies sell electricity to consumers through such systems for the purpose of recharging electric vehicle batteries. Information the Commission possessed also indicated that relatively few companies currently manufacture, convert, or sell AFVs. Except for those companies that sell non-liquid alternative fuel (including electricity) to consumers, the Commission stated that most of the aforementioned industry members, including those that manufacture or sell AFVs, are not ''small entities'' as that term is defined in section 601 of the RFA [411] and in the regulations of the Small Business Administration.[412]

The Commission also stated that although there may be some ''small entities'' among retail sellers of non-liquid alternative fuels (including electricity), the labeling rules proposed would likely have only a minimal impact on these small entities. Any such impact would likely consist of minimal additional recordkeeping and of retailers placing labels on fuel dispensers (to the extent this is not done by distributors for their retailer customers). The impact on small entities, therefore, appeared to be *de minimis* and not significant.

In light of these factors, in the SNPR the Commission certified under the RFA that the rule proposed would not, if promulgated, have a significant impact on a substantial number of small entities, and, therefore, that a regulatory analysis was not necessary.[413] To ensure the accuracy of this certification, however, the Commission requested comments on whether the proposed rule would have a significant impact on a substantial number of small entities, including specific information on the number of entities in each category that would be covered by the proposed rule, the number of these companies that are ''small entities,'' and the average annual burden for each entity.

No comments specifically addressed this aspect of the Commission's SNPR proposal. The Commission, however, received three comments that tangentially addressed this issue. These comments stated that the requirements that producers and importers of natural gas comply with the proposed rule's CNG fuel rating determination, certification and recordkeeping requirements, which includes determining and certifying the minimum percentage of methane in natural gas, would be overly burdensome. These comments stated that most producers currently do not sell natural gas vehicle fuel, and, therefore, do not test for or certify the methane content of the natural gas they sell.[414]

The statements by Unocal, API and AGA/NGVC do not persuade the Commission that the requirements it has adopted will impose a significant economic impact on a substantial number of small entities. First, none of the comments cited specific cost or burden estimates or submitted supporting data concerning the specific burden on any parties. Second, the burden of determining and certifying fuel ratings falls on producers of natural gas only if the fuel is transferred for use as a vehicle fuel. Further, no commenters submitted information to contradict the Commission's belief, which was stated in the SNPR, that most of these industry members are not ''small entities,'' as that term is defined either in section 601 of the RFA or applicable regulations of the Small Business Administration.[415] In addition, the rule adopted by the Commission does not require natural gas producers to conduct tests themselves to determine the fuel rating of natural gas. For example, they may use private facilities for fuel rating determinations, thus obviating the need to have testing equipment of their own. The rule also does not require producers to certify the fuel rating of CNG with each transfer of the fuel. The rule permits producers to give the person to whom the fuel is transferred a letter or written statement, including the fuel rating. The letter or written statement is effective until the producer transfers non-liquid alternative vehicle fuel (other than electricity) with a lower percentage of the major component, or of any other component claimed. Therefore, the Commission believes that the fuel rating determination and certification requirements it has adopted will minimize burdens on even small businesses.

On the basis of all the information now before it, the Commission has determined that the rule will not have a significant impact on a substantial number of small entities. Consequently, the Commission concludes that a regulatory flexibility analysis is not required. In light of the above, the Commission certifies, under section 605 of the RFA,[416] that the rule it has adopted will not have a significant impact on a substantial number of small entities.

IV. Regulatory Review

The Commission has implemented a program to review all of its current and proposed rules and guides. One purpose of the review is to minimize the economic impact of new regulatory actions. As part of that overall regulatory review, the Commission solicited comments in the SNPR on questions concerning benefits and significant burdens and costs of the proposed rule and alternatives to the proposals that would increase benefits to purchasers and minimize the costs and other burdens to firms subject to the rule's requirements. Only one comment raised an issue not previously covered in other parts of this notice. Specifically, RFA urged the Commission to preclude localities from creating more stringent labeling requirements for alternative fuels so that alternative fuel labeling will be consistent nationwide and consumer confusion could be avoided.[417]

The Commission is not persuaded that any reduction in consumer confusion that could result from the narrow standard suggested by RFA would outweigh the benefits of the preemption standard proposed in the

[411] 5 U.S.C. 601(6).

[412] 13 CFR Part 121 (1994).

[413] This analysis and conclusion was consistent with Commission's analysis and conclusion in its Statement of Basis and Purpose (''SBP'') for the liquid alternative fuels amendments to the Fuel Rating Rule. In that SBP, the Commission certified that the Fuel Rating Rule's similar requirements would not have a significant impact. 58 FR 41356, 41369–41370.

[414] AGA/NGVC, I–18, 3–6; API, I–15, 1–5; Unocal, I–5, 2.

[415] 59 FR 59666, 59698.

[416] 5 U.S.C. 605(b).

[417] RFA, I–3, 2.

SNPR. This proposed standard would allow state and local jurisdictions the latitude to establish and enforce regulations that best suit the needs of their particular regions, provided the regulations do not frustrate the purposes of the rule. The Commission, therefore, is adopting the proposed preemption standard, which is substantially the same standard it has used in other Commission rules. Under this standard, the rule supersedes only state and local laws and regulations that would be inconsistent with the requirements of the rule in a manner that would frustrate its purposes.[418]

V. Paperwork Reduction Act

The Paperwork Reduction Act (''PRA''),[419] and regulations of the Office of Management and Budget (''OMB'')[420] implementing the PRA, require agencies to obtain clearance for regulations that involve the ''collection of information,'' which includes both reporting and recordkeeping requirements. In the SNPR, consistent with the Fuel Rating Rule's requirements for sellers of liquid alternative fuels, the Commission proposed requiring that producers, importers, refiners, and distributors of CNG and hydrogen, retailers of CNG, hydrogen and electricity, and manufacturers and distributors of electric vehicle fuel dispensing systems maintain records to substantiate the product-specific disclosures that would be required on fuel dispenser labels. In addition, the Commission proposed requiring that AFV manufacturers maintain records to substantiate two product-specific disclosures that would be required on AFV labels.

The proposed recordkeeping requirements are ''collections of information'' as defined by the OMB regulations implementing the PRA. The proposed requirements, therefore, were submitted to OMB for review under the PRA. In the SNPR, the Commission stated it believed that the proposed recordkeeping requirements, if enacted, would impose a minimal annual ''collection of information'' burden on each covered party within the affected industries.

The Commission also stated that it expected certifications for non-liquid alternative fuels (other than electricity) will be noted on documents (shipping receipts, etc.) already in use, or will be accomplished with a one-time letter of certification, consistent with current procedures for gasoline and liquid alternative fuel suppliers covered by the Fuel Rating Rule. Producers, importers, refiners, and distributors of non-liquid alternative fuels (other than electricity), and retailers of non-liquid alternative fuels (including electricity) need merely file and retain these certifications as the required recordkeeping.

Further, the Commission stated it expected that manufacturers of electric vehicle fuel dispensing systems will permanently mark the required disclosures on the equipment or systems, or will note that information on documents (shipping receipts, etc.) already in use. Manufacturers need merely file and retain records demonstrating substantiation for the proposed labeling disclosures. Distributors and retailers need merely file the documents provided to them by the manufacturers or distributors. If the systems are permanently marked by the manufacturers, distributors and retailers may rely on the permanent markings as the required recordkeeping.

In the SNPR, the Commission stated it believed that the burden per covered industry member that the Commission estimated for the Fuel Rating Rule also was appropriate in this proceeding. In the liquid alternative fuel amendments to the Fuel Rating Rule, the Commission estimated that the information collection burden associated with that rule's recordkeeping requirements was six minutes per year per industry member.[421] This estimate was small because the records at issue were likely to be retained by the industry during the normal course of business, and the ''burden,'' for OMB purposes, is defined to exclude effort that would be expended in any event.[422] Based on these figures, the Commission estimated that the total yearly information collection burden of the proposed rule on these industry members would be 130 hours (six minutes per year times 1,300 industry members).

In the SNPR, the Commission also proposed requiring that AFV manufacturers maintain records to substantiate the tailpipe emission standard to which the vehicle has been certified pursuant to applicable EPA regulations,[423] and their estimates of each vehicle's cruising range. Pursuant to the proposed rule, manufacturers would calculate cruising range values in one of three ways. For vehicles required to comply with EPA's fuel-economy labeling provisions, cruising range would be calculated using the vehicle's estimated fuel-economy rating in conjunction with the fuel tank capacity of the vehicle.[424] For electric vehicles, cruising range would be calculated in accordance with the Society of Automotive Engineers' ''Recommended Practice,'' J1634. For other vehicles not yet required to be labeled with EPA's fuel economy stickers, the Commission proposed that manufacturers possess a reasonable basis, consisting of competent and reliable evidence, for the cruising range values disclosed. The Commission estimated that the information collection burden associated with the proposed recordkeeping requirements for AFV manufacturers would be thirty minutes per year per manufacturer. This was an average burden estimate developed after considering that the overall burden associated with complying with the rule's recordkeeping requirements would be much greater, for example, for AFV manufacturers who must disclose cruising range figures on vehicles not yet required to be labeled with EPA fuel economy stickers.

Although under the proposed rule manufacturers would be required to determine cruising ranges and emission standards for different models of vehicles, the burden estimate (i.e., thirty minutes) also was small because the Commission believed the records at issue were likely to be developed and retained by the industry during the normal course of business. The Commission estimated that approximately 58 industry members would be covered by the proposed rule's cruising range and emission standard recordkeeping requirements. This estimate of the number of affected industry members was based on similar estimates EPA made in connection with its emission standards recordkeeping requirements contained in a final rule establishing two clean-fuel vehicle

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[418] *See* final rule § 309.104 *infra.* This preemption standard is different from the standard in the Fuel Rating Rule. Under § 306.4 of the Fuel Rating Rule, ''no State or any political subdivision thereof may adopt or continue in effect, except as provided in subsection (b), any provision of law or regulation with respect to such act or omission, unless such provision of such law or regulation is the same as the applicable provision of this title.'' 16 CFR 306.4 (1994). The preemption provision in the Fuel Rating Rule is specified by § 204 of the Petroleum Marketing Practices Act, 15 U.S.C. 2824. There is no similar provision that applies to this rule.

[419] 44 U.S.C. 3501–3520.

[420] 5 CFR 1320.7(c).

[421] 58 FR 41356, 41370–41371.

[422] Section 1320.7(b)(1) of the regulations implementing the PRA, 5 CFR 1320.7(b)(1) (1994), states:

The time and financial resources necessary to comply with a collection of information that would be incurred by persons in the normal course of their activities (e.g., in compiling and maintaining business records) will be excluded from the ''burden'' if the agency demonstrates that the reporting or recordkeeping activities needed to comply are usual and customary.

[423] 40 CFR Parts 86 and 88 (1994).

[424] 40 CFR Part 600 (1994).

programs.[425] Based on these figures, the Commission estimated that the current total yearly burden of the proposed rule on the 58 industry members would be 29 hours (thirty minutes per year times 58 industry members).

Consequently, the Commission estimated that the total burden associated with complying with the Rule's recordkeeping requirements for AFVs and non-liquid alternative fuels (including electricity) would be a total of approximately 159 hours per year for all affected industry members. To ensure the accuracy of these burden estimates, however, the Commission solicited comment on the paperwork burden that the proposed requirements may impose to ensure that no additional burden had been overlooked.

No comments addressed the paperwork burden projections the Commission made in the SNPR. Nevertheless, the Commission considered reducing slightly the overall regulatory burden of complying with the rule by eliminating AFV manufacturers' recordkeeping requirements associated with substantiating tailpipe emission standards based on verifiable EPA certifications, and cruising range values based, in part, on verifiable EPA estimated fuel-economy ratings. The information collection requirements the Commission is adopting for such AFV manufacturers, however, includes maintenance of records only, not reporting requirements. Further, AFV manufacturers must have the aforementioned information (the EPA certifications for emissions and the EPA estimated fuel economy ratings) to substantiate the disclosures they must make under the Commission's labeling rules. The Commission expects that manufacturers normally will maintain records showing this information in the normal course of prudent business practice. Minimal additional burden, therefore, is created by a requirement in the Commission's rule that these substantiating records be maintained, and eliminating these recordkeeping requirements would not significantly reduce the overall regulatory burden on AFV manufacturers. On balance, therefore, the Commission sees no reason to revise its projections of burden per year per covered industry member, or modify the recordkeeping requirements in the proposed rule.

Because the aforementioned requirements would involve the ''collection of information'' as defined by the regulations of OMB, the Commission was required to submit the proposed requirements to OMB for clearance, 5 CFR 1320.13, and did so as part of this proceeding. OMB approved the request, and assigned control number 3084–0094 to the information collection requirements.[426] This approval will expire on November 30, 1997, unless it has been extended before that date.

VI. Metric Usage

The metric measurement system is the preferred system of weights and measures for United States trade and commerce.[427] Federal law requires federal agencies to use the metric measurement system in all procurements, grants and other business-related activities (including rulemakings), except to the extent that such use is impractical or likely to cause significant inefficiencies or loss of markets to U.S. firms.[428] In the SNPR, the Commission identified the proposal that AFV labels disclose cruising range in miles[429] as having a potential for the use of metric terms. The Commission thus sought comment on whether to require metric or dual (i.e., metric and non-metric) units for this disclosure.

Two comments addressed this aspect of the Commission's SNPR proposal, and both urged the Commission to require metric and non-metric units for the cruising range disclosure.[430] The Commission is not persuaded, however, that requiring metric equivalents on AFV labels would be appropriate at this time. The Commission's AFV labels were designed to be consistent with EPA's fuel economy labels, which do not utilize metric disclosures. Further, according to section 406(a) of EPA 92, the Commission's required labels must be simple. Given the amount of information the Commission's AFV labels will contain, the Commission does not believe that it would be practical to require metric equivalents at this time. The marginal increase in the public's understanding of the metric system that might result from disclosure of metric equivalents does not appear to offset the practicality problems and potential for confusion that the additional metric terms would create. The Commission, therefore, is not requiring disclosure of cruising range in metric (i.e., kilometers) as well as inch-pound measurements (i.e., miles).

List of Subjects in 16 CFR Part 309

Alternative fuel, Alternative fueled vehicle, Energy conservation, Incorporation by reference, Labeling, Reporting and recordkeeping, Trade practices.

VII. Text of Rule

Accordingly, the Commission amends 16 CFR Chapter I by adding a new part 309 to Subchapter C to read as follows:

PART 309—LABELING REQUIREMENTS FOR ALTERNATIVE FUELS AND ALTERNATIVE FUELED VEHICLES

Subpart A—General

Subpart B—Requirements for Alternative Fuels

Duties of Importers, Producers, and Refiners of Non-Liquid Alternative Vehicle Fuels (other than electricity) and of Manufacturers of Electric Vehicle Fuel Dispensing Systems

Duties of Distributors of Non-Liquid Alternative Vehicle Fuels (other than electricity) and of Electric Vehicle Fuel Dispensing Systems

Duties of Retailers

Label Specifications

Subpart C—Requirements for Alternative Fueled Vehicles

Appendix A—Figures for Part 309

Authority: 42 U.S.C. 13232(a).

Subpart A—General

§ 309.1 Definitions.

As used in subparts B and C of this part:

[425] The information collection requirements in EPA's rule were submitted to OMB by EPA and discussed in ICR No. 1694. Fleet Standards Rule, 59 FR 50042, 50072, Sept. 30, 1994. Under EPA's Clean Fuel Fleet Program, a percentage of new vehicles acquired by certain fleet owners located in covered areas will be required to meet clean-fuel fleet vehicle emission standards. The California Pilot Test Program requires manufacturers to sell light-duty clean-fuel vehicles in California.

[426] Notice of OMB Action to the FTC (Dec. 30, 1994).

[427] 15 U.S.C. 205b. *See also* Exec. Order No. 12,770, 56 FR 35801, July 21, 1991 (implementing section 205b).

[428] *Id.*

[429] *See* proposed rule §§ 309.20, 309.22, 59 FR 59666, 59707–59708.

[430] Mechtly, I–1, 1; Sokol, I–17, 1.

(a) *Acquisition* includes either of the following:

(1) Acquiring the beneficial title to a covered vehicle; or

(2) Acquiring a covered vehicle for transportation purposes pursuant to a contract or similar arrangement for a period of 120 days or more.

(b) *Aftermarket conversion system* means any combination of hardware which allows a vehicle or engine to operate on a fuel other than the fuel which the vehicle or engine was originally certified to use.

(c) *Alternative fuel* means

(1) Methanol, denatured ethanol, and other alcohols;

(2) Mixtures containing 85 percent or more by volume of methanol, denatured ethanol, and/or other alcohols (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions), with gasoline or other fuels;

(3) Natural gas;

(4) Liquefied petroleum gas;

(5) Hydrogen;

(6) Coal-derived liquid fuels;

(7) Fuels (other than alcohol) derived from biological materials;

(8) Electricity (including electricity from solar energy); and

(9) Any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits.

(d)(1) *Consumer* in subpart C means an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States.

(2) *Consumer or ultimate purchaser* in subpart B means, with respect to any non-liquid alternative vehicle fuel (including electricity), the first person who purchases such fuel for purposes other than resale.

(e) *Conventional fuel* means gasoline or diesel fuel.

(f) *Covered vehicle* means either of the following:

(1) A dedicated or dual fueled passenger car (or passenger car derivative) capable of seating 12 passengers or less; or

(2) A dedicated or dual fueled motor vehicle (other than a passenger car or passenger car derivative) with a gross vehicle weight rating less than 8,500 pounds which has a vehicle curb weight of less than 6,000 pounds and which has a basic vehicle frontal area of less than 45 square feet, which is:

(i) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle; or

(ii) Designed primarily for transportation of persons and has a capacity of more than 12 persons.

(g) *Dedicated* means designed to operate solely on alternative fuel.

(h) *Distributor* means any person, except a common carrier, who receives non-liquid alternative vehicle fuel (other than electricity) and distributes such fuel to another person other than the consumer. It also means any person, except a common carrier, who receives an electric vehicle fuel dispensing system and distributes such system to a retailer.

(i) *Dual fueled* means capable of operating on alternative fuel and capable of operating on conventional fuel.

(j) *Electric charging system equipment* means equipment that includes an electric battery charger and is used for dispensing electricity to consumers for the purpose of recharging batteries in an electric vehicle.

(k) *Electric vehicle* (''EV'') means a vehicle designed to operate exclusively on electricity stored in a rechargeable battery, multiple batteries, or battery pack.

(l) *Electric vehicle fuel dispensing system* means electric charging system equipment or an electrical energy dispensing system.

(m) *Electrical energy dispensing system* means equipment that does not include an electric charger and is used for dispensing electricity to consumers for the purpose of recharging batteries in an electric vehicle that contains an on-board electric battery charger.

(n) *Emission certification standard* means the emission standard to which a covered vehicle has been certified pursuant to 40 CFR parts 86 and 88.

(o) *Estimated cruising range* for non-EVs means a manufacturer's reasonable estimate of the number of miles a new covered vehicle will travel between refueling, expressed as a lower estimate (i.e., minimum estimated cruising range) and an upper estimate (i.e., maximum estimated cruising range), as determined by § 309.22. Estimated cruising range for EVs means a manufacturer's reasonable estimate of the number of miles a new covered EV will travel between recharging, expressed as a single estimate, as determined by § 309.22.

(p) *Fuel dispenser* means:

(1) For non-liquid alternative vehicle fuels (other than electricity), the dispenser through which a retailer sells the fuel to consumers.

(2) For electric vehicle fuel dispensing systems, the dispenser through which a retailer dispenses electricity to consumers for the purpose of recharging batteries in an electric vehicle.

(q) *Fuel rating* means:

(1) For non-liquid alternative vehicle fuels (other than electricity), including, but not limited to, compressed natural gas and hydrogen gas, the commonly used name of the fuel with a disclosure of the amount, expressed as a minimum molecular percentage, of the principal component of the fuel. A disclosure of other components, expressed as a minimum molecular percentage, may be included, if desired.

(2) For electric vehicle fuel dispensing systems, a common identifier (such as, but not limited to, ''electricity,'' ''electric charging system,'' ''electric charging station'') with a disclosure of the system's kilowatt (''kW'') capacity, voltage, whether the voltage is alternating current (''ac'') or direct current (''dc''), amperage, and whether the system is conductive or inductive.

(r) *Manufacturer* means the person who obtains a certificate of conformity that the vehicle complies with the standards and requirements of 40 CFR parts 86 and 88.

(s) *Manufacturer of an electric vehicle fuel dispensing system* means any person who manufactures or assembles an electric vehicle fuel dispensing system that is distributed specifically for use by retailers in dispensing electricity to consumers for the purpose of recharging batteries in an electric vehicle.

(t) *New covered vehicle* means a covered vehicle which has not been acquired by a consumer.

(u) *New vehicle dealer* means a person who is engaged in the sale or leasing of new covered vehicles.

(v) *New vehicle label* means a window sticker containing the information required by § 309.20(e).

(w) *Non-liquid alternative fueled vehicle* means a vehicle capable of operating on a non-liquid alternative vehicle fuel.

(x) *Non-liquid alternative vehicle fuel* means alternative fuel used for the purpose of powering a non-liquid alternative fueled vehicle, including, but not limited to, compressed natural gas (''CNG''), hydrogen gas (''hydrogen''), electricity, and any other non-liquid vehicle fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy benefits and substantial environmental benefits.

(y) *Person* means an individual, partnership, corporation, or any other business organization.

(z) *Producer* means any person who purchases component elements and combines them to produce and market non-liquid alternative vehicle fuel (other than electricity).

(aa) *Refiner* means any person engaged in the production or importation of non-liquid alternative vehicle fuel (other than electricity).

(bb) *Retailer* means any person who offers for sale, sells, or distributes non-liquid alternative vehicle fuel (including electricity) to consumers.

(cc) *Secretary* means the Secretary of the United States Department of Energy.

(dd) *Used covered vehicle* means a covered vehicle which has been acquired by a consumer, but does not include any vehicle sold only for scrap or parts (title documents surrendered to the State and a salvage certificate issued).

(ee) *Used vehicle dealer* means a person engaged in the sale or leasing of used covered vehicles who has sold or leased five or more used covered vehicles in the previous twelve months, but does not include a bank or financial institution, a business selling or leasing used covered vehicles to an employee of that business, or a lessor selling or leasing a leased vehicle by or to that vehicle's lessee or to an employee of the lessee.

(ff) *Used vehicle label* means a window sticker containing the information required by § 309.21(e).

(gg) *Vehicle fuel tank capacity* means the tank's usable capacity (i.e., the volume of fuel that can be pumped into the tank through the filler pipe with the vehicle on a level surface and with the unusable capacity already in the tank). The term does not include unusable capacity (i.e., the volume of fuel left at the bottom of the tank when the vehicle's fuel pump can no longer draw fuel from the tank), the vapor volume of the tank (i.e., the space above the fuel tank filler neck), or the volume of the fuel tank filler neck.

§ 309.2 What this part does.

This part establishes labeling requirements for non-liquid alternative vehicle fuels, and for certain vehicles powered in whole or in part by alternative fuels.

§ 309.3 Stayed or invalid portions.

If any portion of this part is stayed or held invalid, the rest of it will stay in force.

§ 309.4 Preemption.

Inconsistent state and local regulations are preempted to the extent they would frustrate the purposes of this part.

Subpart B—Requirements for Alternative Fuels

Duties of Importers, Producers, and Refiners of Non-Liquid Alternative Vehicle Fuels (other than electricity) and of Manufacturers of Electric Vehicle Fuel Dispensing Systems

§ 309.10 Alternative vehicle fuel rating.

(a) If you are an importer, producer, or refiner of non-liquid alternative vehicle fuel (other than electricity), you must determine the fuel rating of all non-liquid alternative vehicle fuel (other than electricity) before you transfer it. You can do that yourself or through a testing lab. To determine fuel ratings, you must possess a reasonable basis, consisting of competent and reliable evidence, for the minimum percentage of the principal component of the non-liquid alternative vehicle fuel (other than electricity) that you must disclose, and for the minimum percentages of other components that you choose to disclose. For the purposes of this section, fuel ratings for the minimum percentage of the principal component of compressed natural gas are to be determined in accordance with test methods set forth in American Society for Testing and Materials (''ASTM'') D 1945–91, ''Standard Test Method for Analysis of Natural Gas by Gas Chromatography.'' For the purposes of this section, fuel ratings for the minimum percentage of the principal component of hydrogen gas are to be determined in accordance with test methods set forth in ASTM D 1946–90, ''Standard Practice for Analysis of Reformed Gas by Gas Chromatography.'' This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of D 1945–91 and D 1946–90 may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103, or may be inspected at the Federal Trade Commission, Public Reference Room, room 130, 600 Pennsylvania Avenue, NW, Washington, DC, or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(b) If you are a manufacturer of electric vehicle fuel dispensing systems, you must determine the fuel rating of the electric charge delivered by the electric vehicle fuel dispensing system before you transfer such systems. To determine the fuel rating of the electric vehicle fuel dispensing system, you must possess a reasonable basis, consisting of competent and reliable evidence, for the following output information you must disclose: kilowatt (''kW'') capacity, voltage, whether the voltage is alternating current (''ac'') or direct current (''dc''), amperage, and whether the system is conductive or inductive.

§ 309.11 Certification.

(a) For non-liquid alternative vehicle fuel (other than electricity), in each transfer you make to anyone who is not a consumer, you must certify the fuel rating of the non-liquid alternative vehicle fuel (other than electricity) consistent with your determination. You can do this in either of two ways:

(1) Include a delivery ticket or other paper with each transfer of non-liquid alternative vehicle fuel (other than electricity). It may be an invoice, bill of lading, bill of sale, terminal ticket, delivery ticket, or any other written proof of transfer. It must contain at least these four items:

(i) Your name;

(ii) The name of the person to whom the non-liquid alternative vehicle fuel (other than electricity) is transferred;

(iii) The date of the transfer; and

(iv) The fuel rating.

(2) Give the person a letter or written statement. This letter must include the date, your name, the other person's name, and the fuel rating of any non-liquid alternative vehicle fuel (other than electricity) you will transfer to that person from the date of the letter onwards. This letter of certification will be good until you transfer non-liquid alternative vehicle fuel (other than electricity) with a lower percentage of the principal component, or of any other component disclosed in the certification. When this happens, you must certify the fuel rating of the new non-liquid alternative vehicle fuel (other than electricity) either with a delivery ticket or by sending a new letter of certification.

(b) For electric vehicle fuel dispensing systems, in each transfer you make to anyone who is not a consumer, you must certify the fuel rating of the electric vehicle fuel dispensing system consistent with your determination. You can do this in either of two ways:

(1) Include a delivery ticket or other paper with each transfer of an electric vehicle fuel dispensing system. It may be an invoice, bill of lading, bill of sale, delivery ticket, or any other written proof of transfer. It must contain at least these five items:

(i) Your name;

(ii) The name of the person to whom the electric vehicle fuel dispensing system is transferred;

(iii) The date of the transfer;

(iv) The model number, serial number, or other identifier of the

electric vehicle fuel dispensing system; and

(v) The fuel rating.

(2) Make the required certification by placing clearly and conspicuously on the electric vehicle fuel dispensing system a permanent legible marking or permanently attached label that discloses the manufacturer's name, the model number, serial number, or other identifier of the system, and the fuel rating. Such marking or label must be located where it can be seen after installation of the system. The marking or label will be deemed ''legible,'' in terms of placement, if it is located in close proximity to the manufacturer's identification marking. This marking or label must be in addition to, and not a substitute for, the label required to be posted on the electric vehicle fuel dispensing system by the retailer.

(c) When you transfer non-liquid alternative vehicle fuel (other than electricity), or an electric vehicle fuel dispensing system, to a common carrier, you must certify the fuel rating of the non-liquid alternative vehicle fuel (other than electricity) or electric vehicle fuel dispensing system to the common carrier, either by letter or on the delivery ticket or other paper, or by a permanent marking or label attached to the electric vehicle fuel dispensing system by the manufacturer.

§ 309.12 Recordkeeping.

You must keep for one year records of how you determined fuel ratings. The records must be available for inspection by Federal Trade Commission staff members, or by people authorized by FTC.

Duties of Distributors of Non-Liquid Alternative Vehicle Fuels (other than electricity) and of Electric Vehicle Fuel Dispensing Systems

§ 309.13 Certification.

(a) If you are a distributor of non-liquid alternative vehicle fuel (other than electricity), you must certify the fuel rating of the fuel in each transfer you make to anyone who is not a consumer. You may certify either by using a delivery ticket or other paper with each transfer of fuel, as outlined in § 309.11(a)(1), or by using a letter of certification, as outlined in § 309.11(a)(2).

(b) If you are a distributor of electric vehicle fuel dispensing systems, you must certify the fuel rating of the system in each transfer you make to anyone who is not a consumer. You may certify by using a delivery ticket or other paper with each transfer, as outlined in § 309.11(b)(1), or by using the permanent marking or permanent label attached to the system by the manufacturer, as outlined in § 309.11(b)(2).

(c) If you do not blend non-liquid alternative vehicle fuels (other than electricity), you must certify consistent with the fuel rating certified to you. If you blend non-liquid alternative vehicle fuel (other than electricity), you must possess a reasonable basis, consisting of competent and reliable evidence, as required by § 309.10(a), for the fuel rating that you certify for the blend.

(d) When you transfer non-liquid alternative vehicle fuel (other than electricity), or an electric vehicle fuel dispensing system, to a common carrier, you must certify the fuel rating of the non-liquid alternative vehicle fuel (other than electricity) or electric vehicle fuel dispensing system to the common carrier, either by letter or on the delivery ticket or other paper, or by a permanent marking or label attached to the electric vehicle fuel dispensing system by the manufacturer. When you receive non-liquid alternative vehicle fuel (other than electricity), or an electric vehicle fuel dispensing system, from a common carrier, you also must receive from the common carrier a certification of the fuel rating of the non-liquid alternative vehicle fuel (other than electricity) or electric vehicle fuel dispensing system, either by letter or on the delivery ticket or other paper, or by a permanent marking or label attached to the electric vehicle fuel dispensing system by the manufacturer.

§ 309.14 Recordkeeping.

You must keep for one year any delivery tickets, letters of certification, or other paper on which you based your fuel rating certifications for non-liquid alternative vehicle fuels (other than electricity) and for electric vehicle fuel dispensing systems. You also must keep for one year records of any fuel rating determinations you made according to § 309.10. If you rely for your certification on a permanent marking or permanent label attached to the electric vehicle fuel dispensing system by the manufacturer, you must not remove or deface the permanent marking or label. The records must be available for inspection by Federal Trade Commission staff members, or by persons authorized by FTC.

Duties of Retailers

§ 309.15 Posting of non-liquid alternative vehicle fuel rating.

(a) If you are a retailer who offers for sale or sells non-liquid alternative vehicle fuel (other than electricity) to consumers, you must post the fuel rating of each non-liquid alternative vehicle fuel. If you are a retailer who offers for sale or sells electricity to consumers through an electric vehicle fuel dispensing system, you must post the fuel rating of the electric vehicle fuel dispensing system you use. You must do this by putting at least one label on the face of each fuel dispenser through which you sell non-liquid alternative vehicle fuel. If you are selling two or more kinds of non-liquid alternative vehicle fuels with different fuel ratings from a single fuel dispenser, you must put separate labels for each kind of non-liquid alternative vehicle fuel on the face of the fuel dispenser.

(b)(1) The label, or labels, must be placed conspicuously on the fuel dispenser so as to be in full view of consumers and as near as reasonably practical to the price per unit of the non-liquid alternative vehicle fuel.

(2) You may petition for an exemption from the placement requirements by writing the Secretary of the Federal Trade Commission, Washington, DC 20580. You must state the reasons that you want the exemption.

(c) If you do not blend non-liquid alternative vehicle fuels (other than electricity), you must post consistent with the fuel rating certified to you. If you blend non-liquid alternative vehicle fuel (other than electricity), you must possess a reasonable basis, consisting of competent and reliable evidence, as required by § 309.10(a), for the fuel rating that you post for the blend.

(d)(1) You must maintain and replace labels as needed to make sure consumers can easily see and read them.

(2) If the labels you have are destroyed or are unusable or unreadable for some unexpected reason, you may satisfy this part by posting a temporary label as much like the required label as possible. You must still get and post the required label without delay.

(e) The following examples of fuel rating disclosures for CNG and hydrogen are meant to serve as illustrations of compliance with this part, but do not limit the rule's coverage to only the mentioned non-liquid alternative vehicle fuels (other than electricity):

(1) ''CNG''
''Minimum''
''XXX%''
''Methane''

(2) ''Hydrogen''
''Minimum''
''XXX%''
''Hydrogen''

(f) The following example of fuel rating disclosures for electric vehicle fuel dispensing systems is meant to

serve as an illustration of compliance with this part:

''Electricity''
''XX kW''
''XXX vac/XX amps''
''Inductive''

(g) When you receive non-liquid alternative vehicle fuel (other than electricity), or an electric vehicle fuel dispensing system, from a common carrier, you also must receive from the common carrier a certification of the fuel rating of the non-liquid alternative vehicle fuel (other than electricity) or electric vehicle fuel dispensing system, either by letter or on the delivery ticket or other paper, or by a permanent marking or label attached to the electric vehicle fuel dispensing system by the manufacturer.

§ 309.16 Recordkeeping.

You must keep for one year any delivery tickets, letters of certification, or other paper on which you based your posting of fuel ratings for non-liquid alternative vehicle fuels. You also must keep for one year records of any fuel rating determinations you made according to § 309.10. If you rely for your posting on a permanent marking or permanent label attached to the electric vehicle fuel dispensing system by the manufacturer, you must not remove or deface the permanent marking or label. The required records, other than the permanent marking or label on the electric vehicle fuel dispensing system, may be kept at the retail outlet or at a reasonably close location. The records, including the permanent marking or label on each electric vehicle fuel dispensing system, must be available for inspection by Federal Trade Commission staff members or by persons authorized by FTC.

Label Specifications

§ 309.17 Labels.

All labels must meet the following specifications:

(a) Layout:

(1) Non-liquid alternative vehicle fuel (other than electricity) labels with disclosure of principal component only. The label is 3″ (7.62 cm) wide x 2½″ (6.35 cm) long. ''Helvetica black'' type is used throughout. All type is centered. The band at the top of the label contains the name of the fuel. This band should measure 1″ (2.54 cm) deep. Spacing of the fuel name is ¼″ (.64 cm) from the top of the label and 3⁄16″ (.48 cm) from the bottom of the black band, centered horizontally within the black band. The first line of type beneath the black band is ⅛″ (.32 cm) from the bottom of the black band. All type below the black band is centered horizontally, with ⅛″ (.32 cm) between lines. The bottom line of type is 3⁄16″ (.48 cm) from the bottom of the label. All type should fall no closer than 3⁄16″ (.48 cm) from the side edges of the label. If you wish to change the format of this single component label, you must petition the Federal Trade Commission. You can do this by writing to the Secretary of the Federal Trade Commission, Washington, DC 20580. You must state the size and contents of the label that you wish to use, and the reasons that you want to use it.

(2) Non-liquid alternative vehicle fuel (other than electricity) labels with disclosure of two components. The label is 3″ (7.62 cm) wide x 2½″ (6.35 cm) long. ''Helvetica black'' type is used throughout. All type is centered. The band at the top of the label contains the name of the fuel. This band should measure 1″ (2.54 cm) deep. Spacing of the fuel name is ¼″ (.64 cm) from the top of the label and 3⁄16″ (.48 cm) from the bottom of the black band, centered horizontally within the black band. The first line of type beneath the black band is 3⁄16″ (.48 cm) from the bottom of the black band. All type below the black band is centered horizontally, with ⅛″ (.32 cm) between lines. The bottom line of type is ¼″ (.64 cm) from the bottom of the label. All type should fall no closer than 3⁄16″ (.48 cm) from the side edges of the label. If you wish to change the format of this two component label, you must petition the Federal Trade Commission. You can do this by writing to the Secretary of the Federal Trade Commission, Washington, DC 20580. You must state the size and contents of the label that you wish to use, and the reasons that you want to use it.

(3) Electric vehicle fuel dispensing system labels. The label is 3″ (7.62 cm) wide x 2½″ (6.35 cm) long. ''Helvetica black'' type is used throughout. All type is centered. The band at the top of the label contains the common identifier of the fuel. This band should measure 1″ (2.54 cm) deep. Spacing of the common identifier is ¼″ (.64 cm) from the top of the label and 3⁄16″ (.48 cm) from the bottom of the black band, centered horizontally within the black band. The first line of type beneath the black band is 3⁄16″ (.48 cm) from the bottom of the black band. All type below the black band is centered horizontally, with ⅛″ (.32 cm) between lines. The bottom line of type is ¼″ (.64 cm) from the bottom of the label. All type should fall no closer than 3⁄16″ (.48 cm) from the side edges of the label.

(b) Type size and setting:

(1) Labels for non-liquid alternative vehicle fuels (other than electricity) with disclosure of principal component only. All type should be set in upper case (all caps) ''Helvetica Black'' throughout. Helvetica Black is available in a variety of computer desk-top and photo-typesetting systems. Its name may vary, but the type must conform in style and thickness to the sample provided here. The spacing between letters and words should be set as ''normal.'' The type for the fuel name is 50 point (½″ (1.27 cm) cap height) knocked out of a 1″ (2.54 cm) deep band. The type for the words ''MINIMUM'' and the principal component is 24 pt. (¼″ (.64 cm) cap height). The type for percentage is 36 pt. (⅜″ (.96 cm) cap height).

(2) Labels for non-liquid alternative vehicle fuels (other than electricity) with disclosure of two components. All type should be set in upper case (all caps) ''Helvetica Black'' throughout. Helvetica Black is available in a variety of computer desk-top and photo-typesetting systems. Its name may vary, but the type must conform in style and thickness to the sample provided here. The spacing between letters and words should be set as ''normal.'' The type for the fuel name is 50 point (½″ 1.27 cm) cap height) knocked out of a 1″ (2.54 cm) deep band. All other type is 24 pt. (¼″ (.64 cm) cap height).

(3) Labels for electric vehicle fuel dispensing systems. All type should be set in upper case (all caps) ''Helvetica Black'' throughout. Helvetica Black is available in a variety of computer desk-top and photo-typesetting systems. Its name may vary, but the type must conform in style and thickness to the sample provided here. The spacing between letters and words should be set as ''normal.'' The type for the common identifier is 50 point (½″ 1.27 cm) cap height) knocked out of a 1″ (2.54 cm) deep band. All other type is 24 pt. (¼″ (.64 cm) cap height).

(c) Colors: The background color on the labels for all non-liquid alternative vehicle fuels (including electricity), and the color of the knock-out type within the black band, is Orange: PMS 1495. All other type is process black. All borders are process black. All colors must be non-fade.

(d) Contents. Examples of the contents are shown in Figures 1 through 3. The proper fuel rating for each non-liquid alternative vehicle fuel (including electricity) must be shown. No marks or information other than that called for by this part may appear on the labels.

(e) Special label protection. All labels must be capable of withstanding extremes of weather conditions for a period of at least one year. They must be resistant to vehicle fuel, oil, grease, solvents, detergents, and water.

(f) Illustrations of labels. Labels must meet the specifications in this section and look like Figures 1 through 3 of Appendix A, except the black print should be on the appropriately colored background.

Subpart C—Requirements for Alternative Fueled Vehicles

§ 309.20 Labeling requirements for new covered vehicles.

(a) Affixing and maintaining labels

(1) Before offering a new covered vehicle for acquisition to consumers, manufacturers shall affix or cause to be affixed, and new vehicle dealers shall maintain or cause to be maintained, a new vehicle label on a visible surface of each such vehicle.

(2) If an aftermarket conversion system is installed on a vehicle by a person other than the manufacturer prior to such vehicle's being acquired by a consumer, the manufacturer shall provide that person with the vehicle's estimated cruising range (as determined by § 309.22(a) for dedicated vehicles and § 309.22(b) for dual fueled vehicles) and emission certification standard and ensure that new vehicle labels are affixed to such vehicles as required by paragraph (a) of this section.

(b) Layout. Figures 4 through 6 of Appendix A are prototype labels that demonstrate the proper layout. All positioning, spacing, type size, and line widths shall be similar to and consistent with the prototype labels. Labels required by this section are two-sided and rectangular in shape measuring 7 inches (17.5 cm) wide and 5–1/2 inches (13.75 cm) long. Figure 4 of Appendix A represents the prototype for the front side of the labels for dedicated vehicles. Figures 5 and 5.1 of Appendix A represent the prototype of the front side of the labels for dual-fueled vehicles; Figure 5 of Appendix A represents the prototype for vehicles with one fuel tank and Figure 5.1 of Appendix A represents the prototype for vehicles with two fuel tanks. Figure 6 of Appendix A represents the prototype of the back side of the labels for both dedicated and dual-fueled vehicles. Manufacturers may, at their discretion, display the appropriate front label format and back label format immediately adjacent to each other on the same visible surface. No marks or information other than that specified in this subpart shall appear on this label.

(c) Type size and setting. The Helvetica Condensed and Helvetica family typefaces or equivalent shall be used exclusively on the label. Specific type sizes and faces to be used are indicated on the prototype labels (Figures 4, 5, 5.1, and 6 of Appendix A). No hyphenation should be used in setting headline or text copy. Positioning and spacing should follow the prototypes closely.

(d) Colors and Paper Stock. All labels shall be printed in process black ink on Hammermill Offset Opaque Vellum/ S.70 Sky Blue (or equivalent) paper. Follow label prototypes for percentages of screen tints in Exhaust Emissions chart.

(e) Content

(1) Headlines and text, as illustrated in Figures 4, 5, 5.1, and 6 of Appendix A, are standard for all labels.

(2) Estimated cruising range. (i) For dedicated vehicles, determined in accordance with § 309.22(a).

(ii) For dual fueled vehicles, determined in accordance with § 309.22(b).

(3) Emission certification standard.

(i) For vehicles not certified as meeting an EPA emissions standard, indicated by placing a mark in the appropriate box indicating that fact.

(ii) For vehicles certified as meeting an EPA emissions standard, indicated by placing a mark in the appropriate box indicating that fact and by placing a caret above the standard to which that vehicle has been certified.

§ 309.21 Labeling requirements for used covered vehicles.

(a) Affixing and maintaining labels. Before offering a used covered vehicle for acquisition to consumers, used vehicle dealers shall affix and maintain, or cause to be affixed and maintained, a used vehicle label on a visible surface of each such vehicle.

(b) Layout. Figures 7 and 8 of Appendix A are prototype labels that demonstrate the proper layout. All positioning, spacing, type size, and line widths should be similar to and consistent with the prototype labels. Labels required by this section are two-sided and rectangular in shape measuring 7 inches (17.5 cm) in width and 5–1/2 inches (13.75 cm) in height. Figure 7 represents the prototype of the front side of the labels for used covered vehicles. Figure 8 represents the back side of the labels for used covered vehicles. Manufacturers may, at their discretion, display the appropriate front label format and back label format immediately adjacent to each other on the same visible surface. No marks or information other than that specified in this subpart shall appear on this label.

(c) Type size and setting. The Helvetica Condensed and Helvetica family typefaces or equivalent shall be used exclusively on the label. Specific type sizes and faces to be used are indicated on the prototype labels (Figures 7 and 8 of Appendix A). No hyphenation should be used in setting headline or text copy. Positioning and spacing should follow the prototypes closely.

(d) Colors and Paper Stock. All labels shall be printed in process black ink on Hammermill Offset Opaque Vellum/ S.70 Sky Blue (or equivalent) paper.

(e) Contents. Headlines and text, as illustrated in Figures 7 and 8 of Appendix A, are standard for all labels.

§ 309.22 Determining estimated cruising range.

(a) Dedicated vehicles.

(1) Estimated cruising range values for dedicated vehicles required to comply with the provisions of 40 CFR Part 600 are to be calculated in accordance with the following:

(i) The lower range value shall be determined by multiplying the vehicle's estimated city fuel-economy by its fuel tank capacity, then rounding to the next lower integer value.

(ii) The upper range value shall be determined by multiplying the vehicle's estimated highway fuel-economy by its fuel tank capacity, then rounding to the next higher integer value.

(2) Estimated cruising range for an EV is the actual vehicle range determined in accordance with test methods set forth in Society of Automotive Engineers (''SAE'') Surface Vehicle Recommended Practice SAE J1634–1993–05–20, ''Electric Vehicle Energy Consumption and Range Test Procedure.'' This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of SAE J1634–1993–05–20 may be obtained from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, PA, 15096–0001, or may be inspected at the Federal Trade Commission, Public Reference Room, room 130, 600 Pennsylvania Avenue, NW, Washington, DC, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(3) To determine the estimated cruising range values for dedicated vehicles not required to comply with the provisions of 40 CFR Part 600 (other than electric vehicles), you must possess a reasonable basis, consisting of competent and reliable evidence that substantiates the minimum and maximum number of miles the vehicle will travel between refuelings or rechargings that is claimed.

(b) Dual-fueled vehicles.

(1) Estimated cruising range values for dual-fueled vehicles required to comply

with the provisions of 40 CFR Part 600 are to be calculated in accordance with the following:

(i) The lower range value for the vehicle while operating exclusively on alternative fuel shall be determined by multiplying the vehicle's estimated city fuel-economy by its alternative-fuel tank capacity, then rounding to the next lower integer value.

(ii) The upper range value for the vehicle while operating exclusively on alternative fuel shall be determined by multiplying the vehicle's estimated highway fuel-economy by its alternative-fuel tank capacity, then rounding to the next higher integer value.

(iii) The lower range value for the vehicle while operating exclusively on conventional fuel shall be determined by multiplying the vehicle's estimated city fuel-economy by its conventional-fuel tank capacity, then rounding to the next lower integer value.

(iv) The upper range value for the vehicle while operating exclusively on conventional fuel shall be determined by multiplying the vehicle's estimated highway fuel-economy by its conventional-fuel tank capacity, then rounding to the next higher integer value.

(2) [Reserved]

(3) To determine the estimated cruising range values for dual-fueled vehicles not required to comply with the provisions of 40 CFR part 600 (other than electric vehicles), you must possess a reasonable basis, consisting of competent and reliable evidence, of:

(i) The minimum and maximum number of miles the vehicle will travel between refuelings or rechargings when operated exclusively on alternative fuel, and

(ii) The minimum and maximum number of miles the vehicle will travel between refuelings or rechargings when operated exclusively on conventional fuel.

§ 309.23 Recordkeeping.

Manufacturers required to comply this subpart shall establish, maintain, and retain copies of all data, reports, records, and procedures used to meet the requirements of this subpart for three years after the end of the model year to which they relate. They must be available for inspection by Federal Trade Commission staff members, or by people authorized by the Federal Trade Commission.

BILLING CODE 6750–01–P

Appendix A—Figures for Part 309

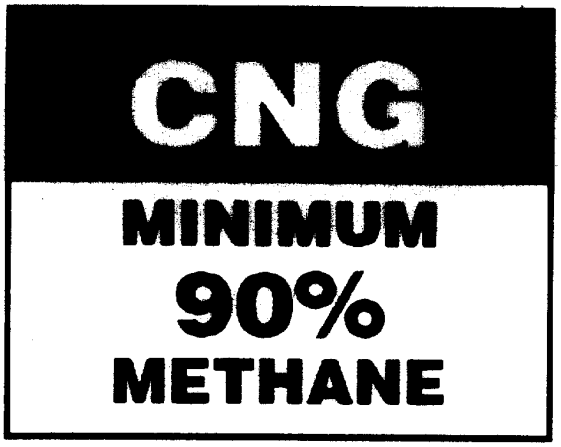

Figure 1

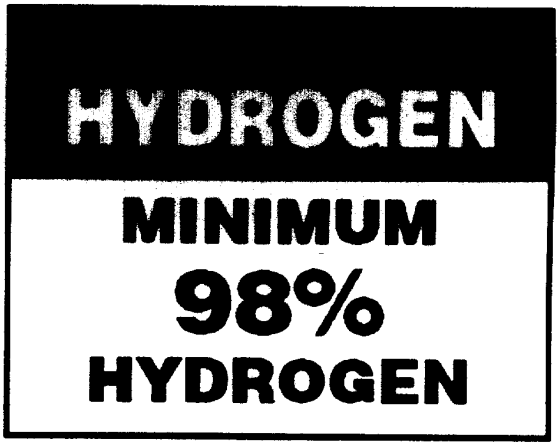

Figure 2

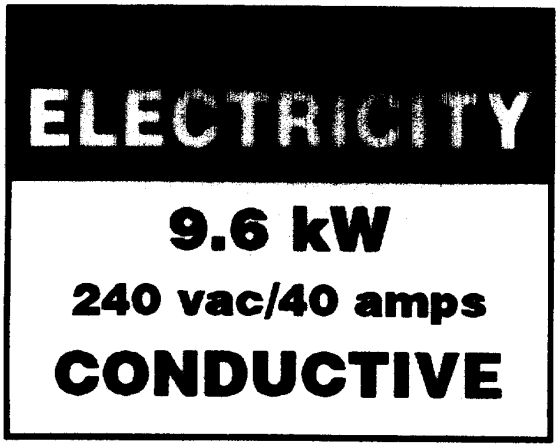

Figure 3

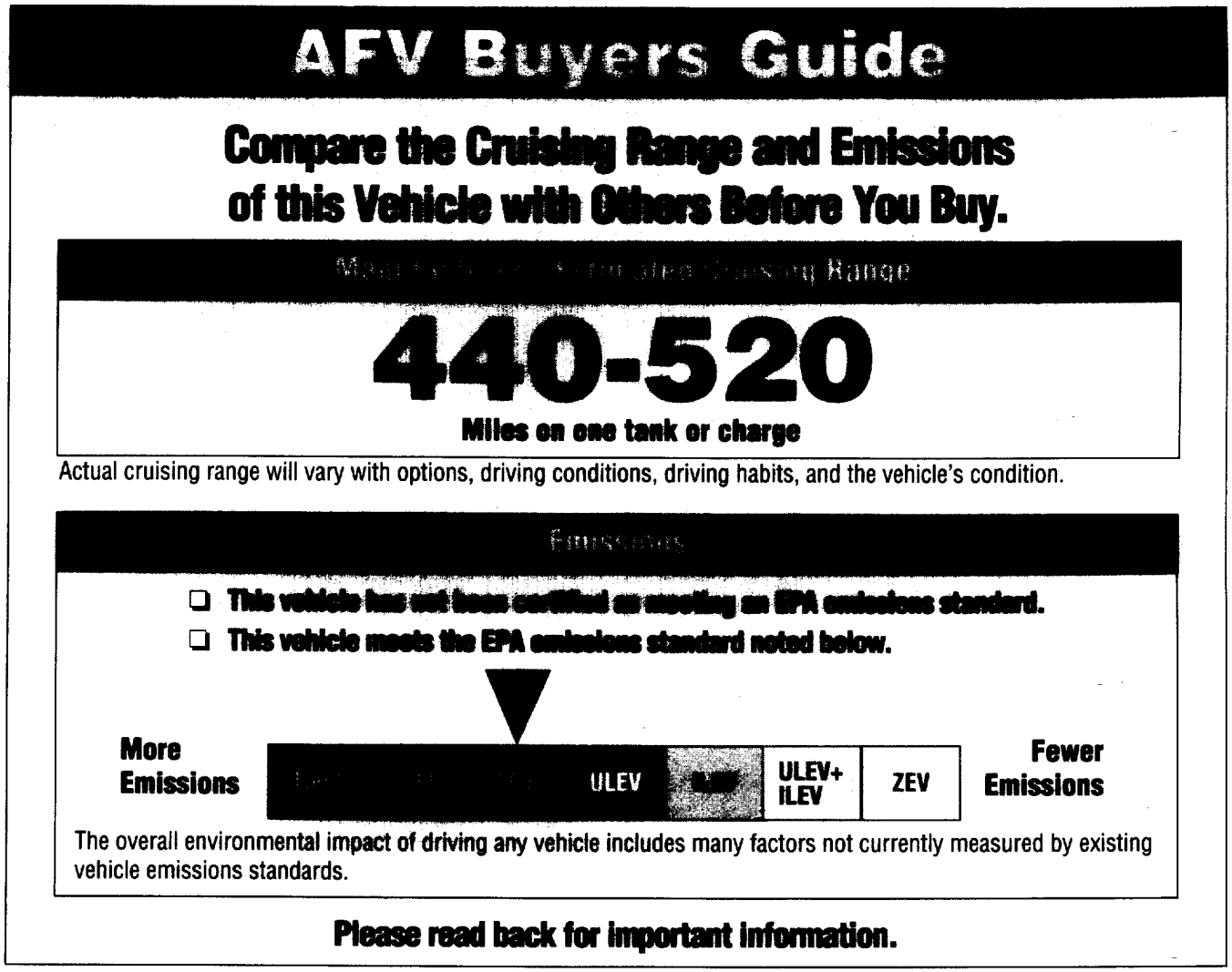
AFV Buyers Guide
Compare the Cruising Range and Emissions of this Vehicle with Others Before You Buy.
440-520
Miles on one tank or charge
Actual cruising range will vary with options, driving conditions, driving habits, and the vehicle's condition.
This vehicle meets the EPA emissions standard noted below.
More Emissions
ULEV
ULEV+ iLEV
ZEV
Fewer Emissions
The overall environmental impact of driving any vehicle includes many factors not currently measured by existing vehicle emissions standards.
Please read back for important information.

Figure 4

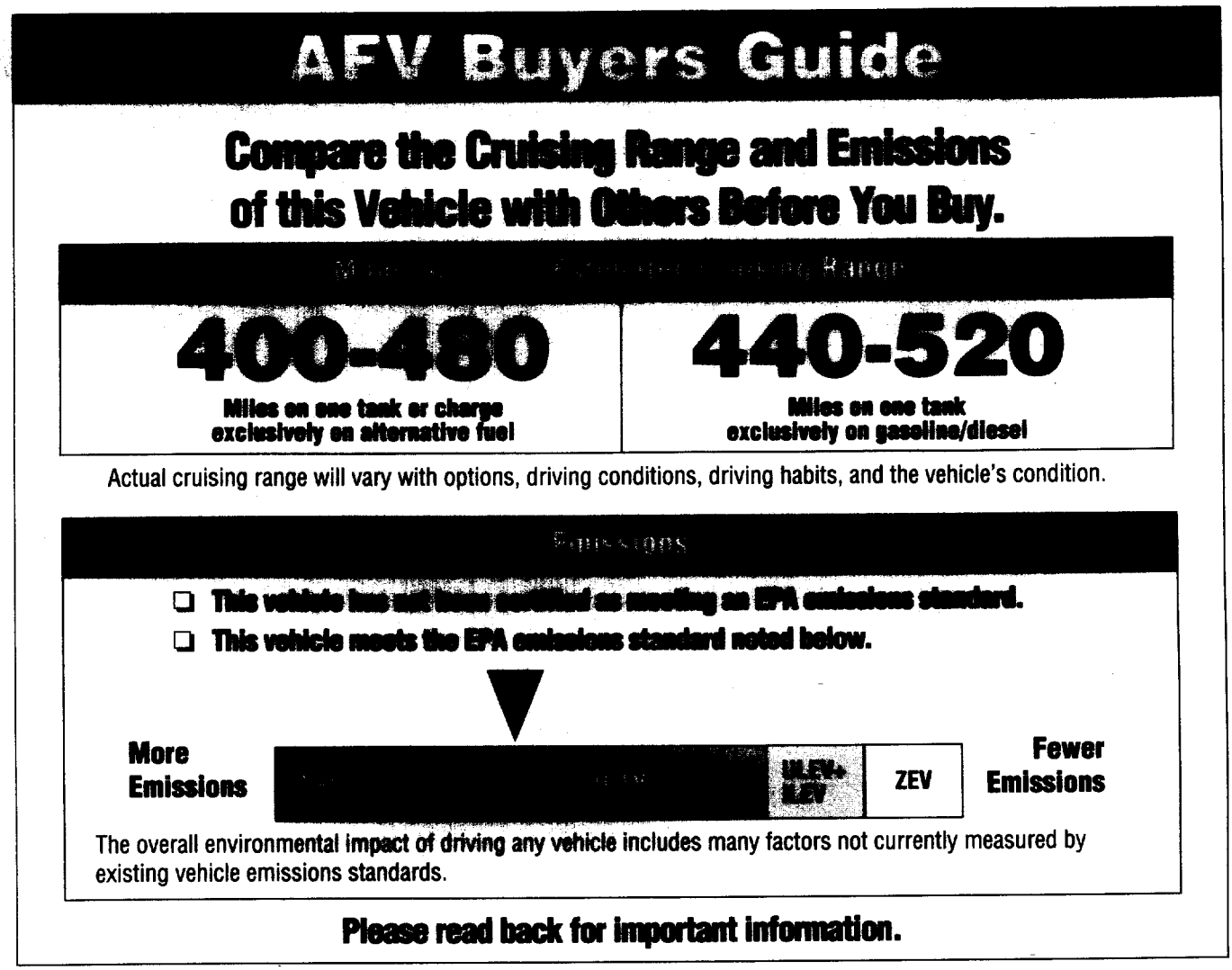
AFV Buyers Guide
Compare the Cruising Range and Emissions of this Vehicle with Others Before You Buy.
400-480
Miles on one tank or charge exclusively on alternative fuel
440-520
Miles on one tank exclusively on gasoline/diesel
Actual cruising range will vary with options, driving conditions, driving habits, and the vehicle's condition.
ULEV+ LEV
ZEV
More Emissions
Fewer Emissions
The overall environmental impact of driving any vehicle includes many factors not currently measured by existing vehicle emissions standards.
Please read back for important information.

Figure 5

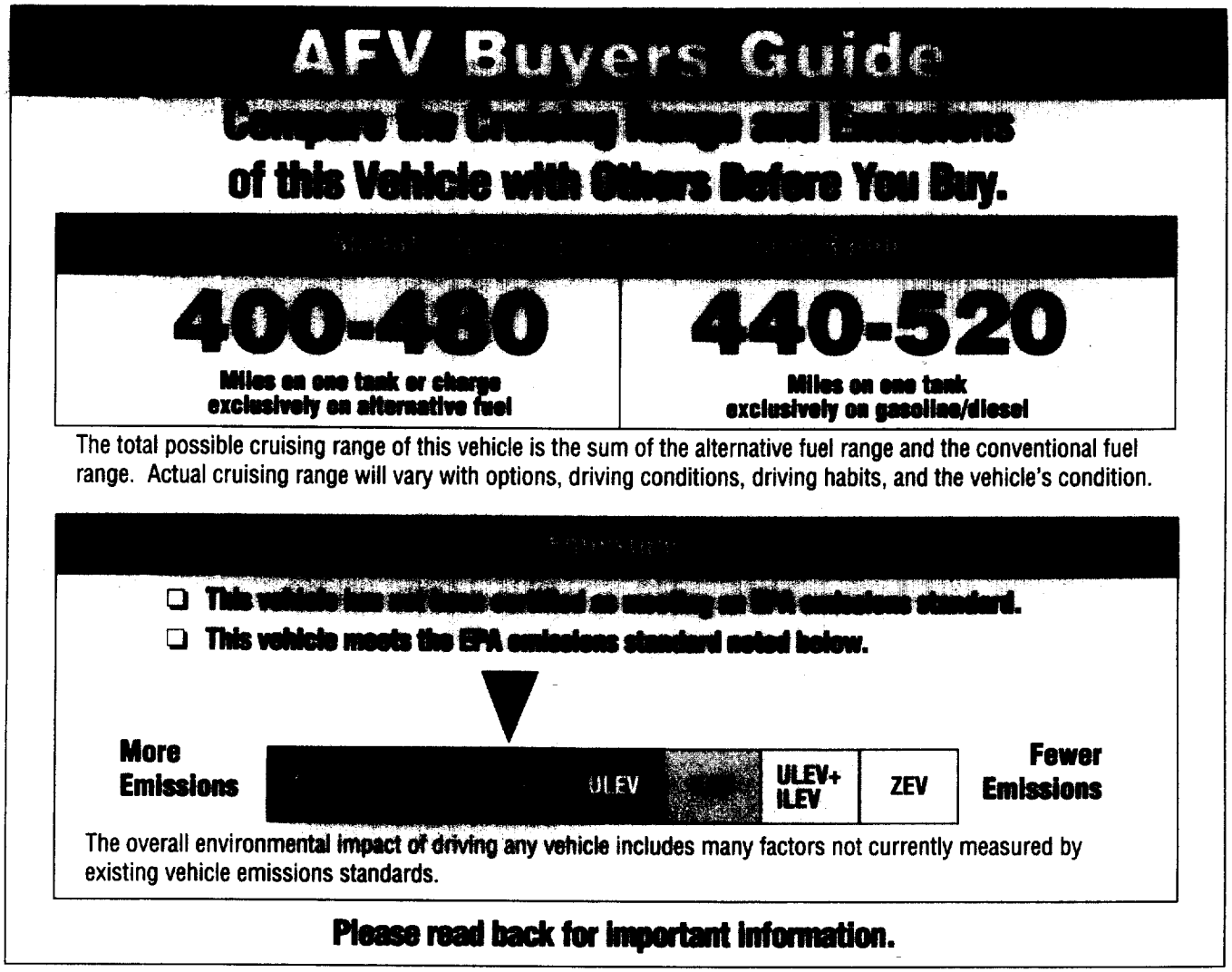
AFV Buyers Guide
of this Vehicle with Others Before You Buy.
400-480
Miles on one tank or charge exclusively on alternative fuel
440-520
Miles on one tank exclusively on gasoline/diesel
The total possible cruising range of this vehicle is the sum of the alternative fuel range and the conventional fuel range. Actual cruising range will vary with options, driving conditions, driving habits, and the vehicle's condition.
This vehicle meets the EPA emissions standard noted below.
More Emissions
ULEV
ULEV+ ILEV
ZEV
Fewer Emissions
The overall environmental impact of driving any vehicle includes many factors not currently measured by existing vehicle emissions standards.
Please read back for important information.

Figure 5.1

Before selecting an Alternative Fueled Vehicle (AFV) make sure you consider:

- ☑ **FUEL TYPE:** Know which fuel(s) power this vehicle.
- ☑ **OPERATING COSTS:** Fuel and maintenance costs for AFVs differ from gasoline or diesel-fueled vehicles and can vary considerably.
- ☑ **PERFORMANCE/CONVENIENCE:** Vehicles powered by different fuels differ in their cold-start capabilities (i.e., ability to start a cold engine), refueling and/or recharging time (i.e., how long it takes to refill the vehicle's tank to full capacity), acceleration rates, and refueling methods.
- ☑ **FUEL AVAILABILITY:** Determine whether refueling and/or recharging facilities that meet your driving needs have been developed for this vehicle and will be readily available in your area.
- ☑ **ENERGY SECURITY/RENEWABILITY:** Consider where and how the fuel powering this vehicle is typically produced.

Additional Information

DEPARTMENT OF ENERGY (DOE)
For more information about AFVs, contact DOE's National Alternative Fuels Hotline, **1-800-423-1DOE,** and ask for its free brochure.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA)
For more information about vehicle safety, contact NHTSA's Auto Safety Hotline, **1-800-424-9393.**

The information on this label is required by the Federal Trade Commission, 16 CFR Part 309.

Figure 6

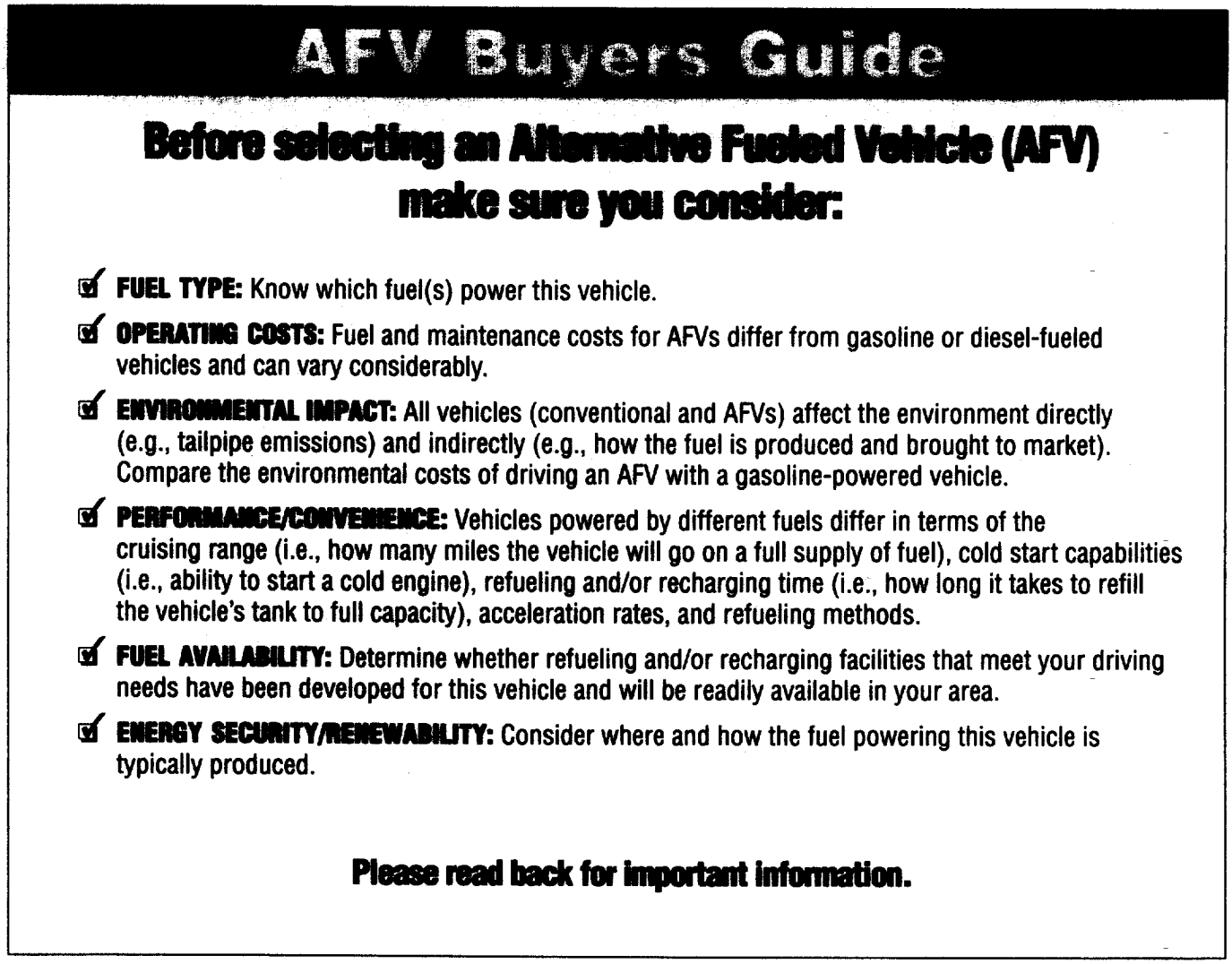
AFV Buyers Guide
Before selecting an Alternative Fueled Vehicle (AFV) make sure you consider:
FUEL TYPE: Know which fuel(s) power this vehicle.
OPERATING COSTS: Fuel and maintenance costs for AFVs differ from gasoline or diesel-fueled vehicles and can vary considerably.
ENVIRONMENTAL IMPACT: All vehicles (conventional and AFVs) affect the environment directly (e.g., tailpipe emissions) and indirectly (e.g., how the fuel is produced and brought to market). Compare the environmental costs of driving an AFV with a gasoline-powered vehicle.
PERFORMANCE/CONVENIENCE: Vehicles powered by different fuels differ in terms of the cruising range (i.e., how many miles the vehicle will go on a full supply of fuel), cold start capabilities (i.e., ability to start a cold engine), refueling and/or recharging time (i.e., how long it takes to refill the vehicle's tank to full capacity), acceleration rates, and refueling methods.
FUEL AVAILABILITY: Determine whether refueling and/or recharging facilities that meet your driving needs have been developed for this vehicle and will be readily available in your area.
ENERGY SECURITY/RENEWABILITY: Consider where and how the fuel powering this vehicle is typically produced.
Please read back for important information.

Figure 7

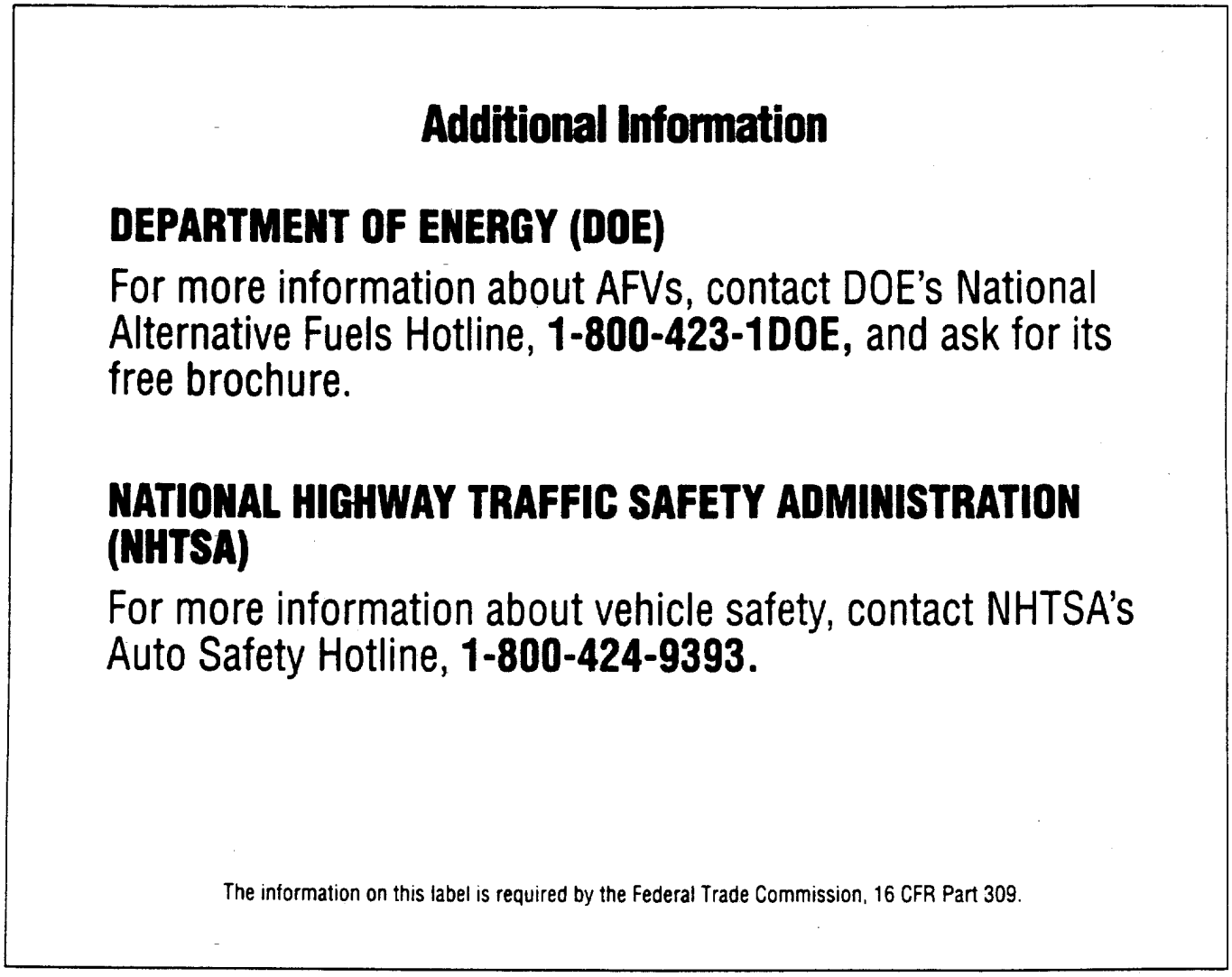

Figure 8

BILLING CODE 6750–01–C

By direction of the Commission, Chairman Pitofsky not participating, and Commissioner Azcuenaga concurring in part and dissenting in part.

Donald S. Clark,

Secretary.

Statement of Commissioner Mary L. Azcuenaga Concurring in Part and Dissenting in Part

Label Requirements for Alternative Fuels, Matter No. R311002

Today, the Commission issues a final rule pursuant to the Energy Policy Act of 1992 (''EPA 92'') that imposes certification, substantiation, and recordkeeping requirements in connection with the labeling of non-liquid alternative fuels and alternative fueled vehicles. EPA 92, however, only directs the Commission to prescribe ''labeling requirements,'' 42 U.S.C. § 13232(a); it does not indicate that Congress also intended to give the Commission the authority to impose certification, substantiation, and recordkeeping requirements. The legislative history of EPA 92 also fails to show that Congress intended to give the Commission such authority. Although certification, substantiation, and recordkeeping requirements may all be beneficial, in the absence of any statutory language or legislative history indicating that Congress intended to give the Commission latitude to impose such requirements, I believe that the Commission has no authority to do so. I therefore dissent from the final rule to the extent that it imposes certification, substantiation, and recordkeeping requirements in connection with the labeling of non-liquid alternative fuels and alternative fueled vehicles.

[FR Doc. 95–12160 Filed 5–18–95; 8:45 am]

BILLING CODE 6750–01–P

Friday
May 19, 1995

Part III

Department of Labor

Office of the Secretary Employment and Training Administration

20 CFR Part 655, et al.

Amendment of Filing and Service Requirements in Proceedings Before the Office of Administrative Law Judges; Final Rule

DEPARTMENT OF LABOR

Office of the Secretary

Employment and Training Administration

20 CFR Part 655

29 CFR Parts 18 and 24

Amendment of Filing and Service Requirements in Proceedings Before the Office of Administrative Law Judges

AGENCY: Office of the Secretary, Labor.

ACTION: Final rule.

SUMMARY: This document completes the interim rulemaking published on August 15, 1994. This final rule amends regulations governing the filing and service of documents in proceedings before the Department of Labor's Office of Administrative Law Judges generally, and in one instance, the Regional Administrator's service of a notice of denial of temporary labor certification. The amendments modify regulations which heretofore required filing or service by mailgram or telegram, substituting therefore the option to file or serve those documents by facsimile (fax), telegram or other means normally assuring next day delivery. The amendments also provide guidelines for the filing and service of documents by facsimile, limiting such filings to instances when they are explicitly permitted by statute or regulation, or by the presiding administrative law judge. Finally, the amendments eliminate the routine filing of documents relating to discovery, limiting such filings to instances when there is a reason for their submission.

EFFECTIVE DATE: May 19, 1995.

FOR FURTHER INFORMATION CONTACT: John M. Vittone, Deputy Chief Administrative Law Judge, Office of Administrative Law Judges. Telephone: (202) 633–0341.

SUPPLEMENTARY INFORMATION:

Background

The Department issued these regulations in interim final form on August 15, 1994, and asked for comments from the public and concerned parties. In the only one month comment period that followed, the Office of Administrative Law Judges received no comments.

The interim final rule is hereby being adopted as a final rule, with only one change which we perceive to be an improvement. Specifically, the rule governing service and filing of documents is modified to make service of representatives conform to practice in the United States District Courts, where, if a party is represented by an attorney, only the attorney is served unless direct service on the party is ordered by the court. See Federal Rules of Civil Procedure 5(b).

Technical Comments

The only change to the interim final rule is in 29 CFR 18.3. Subparagraph 18.3(a) is modified by inserting after the heading ''Generally.'', the following: ''Except as otherwise provided by these rules, copies of all documents shall be served on all parties of record.'' Subparagraph 18.3(b) is modified by revising the heading ''By parties.'' to read ''How made; by parties.'' In addition, subparagraph 18.3(b) is modified by deleting from the interim final rule the sentence ''Service of all documents shall be made upon all parties, and when a party is represented by an attorney or other representative, service also shall be made upon the attorney or representative.'' That sentence is replaced by the following: ''Whenever under these rules service by a party is required to be made upon a party represented by an attorney or other representative the service shall be made upon the attorney or other representative unless service upon the party is ordered by the presiding administrative law judge.''

Procedural Matters

This is not a significant regulatory action as defined by Executive Order 12866. Previously, on August 8, 1994, the undersigned certified to the Small Business Administration that this rule, if promulgated, would not have a significant economic impact upon a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The rule does not contain any information collection or record keeping requirements as defined in the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Effective Date

This document will become effective upon publication pursuant to 5 U.S.C. 553(d). The undersigned has determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication. This determination is based upon the fact that the underlying interim rule in this matter has been in effect since September 14, 1994. Accordingly, there is no need for postponement of the effective date.

List of Subjects

20 CFR Part 655

Administrative practice and procedure, Aliens, Employment, Migrant labor.

29 CFR Part 18

Administrative practice and procedure.

29 CFR Part 24

Employment, Environmental protection.

Accordingly, the interim final rule amending 20 CFR 655 and 29 CFR Part 18 and 24, which was published at 59 CFR 41874 on August 15, 1994, is adopted as a final rule with the following change:

TITLE 29—LABOR

PART 18—RULES OF PRACTICE AND PROCEDURE FOR ADMINISTRATIVE HEARINGS BEFORE THE OFFICE OF ADMINISTRATIVE LAW JUDGES

1. The authority citation for Part 18 continues to read as follows:

Authority: 5 U.S.C. 301; 5 U.S.C. 551–553; 5 U.S.C. 581; E.O. 12778; 57 FR 7292.

2. Section 18.3 is amended by revising paragraphs (a) and (b) to read as follows:

§ 18.3 Service and filing of documents.

(a) *Generally.* Except as otherwise provided in this part, copies of all documents shall be served on all parties of record. All documents should clearly designate the docket number, if any, and short title of the matter. If the matter involves a program administered by the Office of Workers' Compensation Programs (OWCP), the document should contain the OWCP number in addition to the docket number. All documents to be filed shall be delivered or mailed to the Chief Docket Clerk, Office of Administrative Law Judges (OALJ), 800 K Street, NW., Suite 400, Washington, DC 20001–8002, or to the OALJ Regional Office to which the proceeding may have been transferred for hearing. Each document filed shall be clear and legible.

(b) *How made; by parties.* All documents shall be filed with the Office of Administrative Law Judges, except that notices of deposition, depositions, interrogatories, requests for admissions, and answers and responses thereto, shall not be so filed unless the presiding judge so orders, the document is being offered into evidence, the document is submitted in support of a motion or a response to a motion, filing is required by a specialized rule, or there is some other compelling reason for its submission. Whenever under this part

service by a party is required to be made upon a party represented by an attorney or other representative the service shall be made upon the attorney or other representative unless service upon the party is ordered by the presiding administrative law judge. Service of any document upon any party may be made by personal delivery or by mailing a copy to the last known address. The person serving the document shall certify to the manner and date of service.

* * * * *

Signed at Washington, DC, this 15th day of May 1995.

Robert Reich,

Secretary of Labor.

[FR Doc. 95–12365 Filed 5–18–95; 8:45 am]

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Federal Register

Friday
May 19, 1995

Part IV

The President

Proclamation 6801—Labor History Month, 1995

Federal Register
Vol. 60, No. 97
Friday, May 19, 1995

Presidential Documents

Title 3—

The President

Proclamation 6801 of May 17, 1995

Labor History Month, 1995

By the President of the United States of America

A Proclamation

Among the most insistent themes in the history of American democracy has been the determination of our workers to find dignity in their work and meaning in their citizenship. The labor movement has long given voice to these aspirations. American trade unionists have fought for and achieved benefits for all of us by strengthening citizens' roles in the workplace and by expanding their participation in the political lives of their communities.

Gone is the time when the average American worker made about ten dollars for a 60-hour week, and more than 2 million children worked similarly long hours for even less pay. The national labor movement has helped ensure safe working conditions, regular hours, decent living wages, and paid holidays and vacations. And in 1993 we moved a step further, affording hard-working Americans the right to emergency family leave.

Workers have been leaders in the efforts to establish the 8-hour day, the 40-hour week, security in unemployment and old age, protection for the sick and injured and for children, equal employment opportunity, and health and safety standards. And the labor movement has strived to make public education available for every child. American workers have helped to make this progress possible, and our country is immeasurably stronger because of it.

As we observe Labor History Month this year, we understand that our work is not yet finished. Today's global marketplace demands that we establish and strengthen partnerships between employers and unions, cooperate to achieve safe, high-performance work environments, improve the skills of American workers and the competitiveness of American businesses, and further enhance human dignity in the workplace. The challenges we face are many, but the history of our accomplishments assures us that the future looks bright indeed.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim May 1995, as ''Labor History Month.'' I call upon the people of the United States to observe this period with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of May, in the year of our Lord nineteen hundred and ninety-five, and of the Independence of the United States of America the two hundred and nineteenth.

[FR Doc. 95–12533
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